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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

RALEIGH, NC

WHEN: April 16, 1996 at 9:00 am
WHERE: Federal Building and U.S. Courthouse, Room 209, 310 New Bern Avenue, Raleigh, NC 27601
RESERVATIONS: 1–800–688–9889

WASHINGTON, DC

WHEN: April 23, 1996 at 9:00 am
WHERE: Office of the Federal Register Conference Room, 800 North Capitol Street, NW., Washington, DC (3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

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Reader Aids
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Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Parts 611 and 655

[Docket No. 951208293–6065–02; I.D. 110995B]

RIN 0648–AF01

Atlantic Mackerel, Squid, and Butterfish Fisheries; Amendment 5

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement approved measures contained in Amendment 5 to the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP). Amendment 5 (Amendment) is intended to further the Americanization of the fisheries and to implement measures to prevent overfishing and avoid overcapitalization of the domestic fleet. In addition, NMFS informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this rule and publishes the OMB control numbers for these collections.

EFFECTIVE DATE: May 2, 1996.

ADDRESSES: Copies of Amendment 5, final environmental impact statement, regulatory impact review, and other supporting documents are available upon request from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901–6790.

Comments regarding the collection-of-information requirements contained in this rule should be sent to Dr. Andrew Rosenberg, Director, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 508–281–9104.

SUPPLEMENTARY INFORMATION:

Background

Amendment 5 was developed in response to concerns regarding overcapitalization expressed by industry representatives at several meetings of the Mid-Atlantic Fishery Management Council (Council) and its Squid, Mackerel, and Butterfish Committee in the early 1990's. Increases in domestic squid landings and a stagnation in the growth of butterfish landings at well below the maximum sustainable yield (MSY) for that species moved the Council to develop this comprehensive amendment. Details concerning the development of the Amendment are provided in the proposed rule which was published in the Federal Register on December 20, 1995 (60 FR 65618).

Amendment 5, as adopted by the Council, contained moratoria on entry into the *Illex* and the *Loligo* squid and butterfish fisheries based on specified criteria. It also proposed a minimum mesh size for the *Loligo* fishery with an exemption for the sea herring fishery and the summer *Illex* fishery beyond the 50-fathom curve; an annual specification process for all four species; reduction of the MSY for *Loligo* from 44,000 metric tons (mt) to 36,000 mt; a modification of the formula for arriving at the allowable biological catch for Atlantic mackerel; elimination of joint venture processing and total allowable level of foreign fishing for *Loligo* and *Illex* squid and butterfish; and establishment of vessel operator permits, dealer permits and reporting, and vessel reporting requirements.

In the proposed rule, NMFS noted that it had specific concerns about the following proposed measures: (1) The moratorium entry criteria, (2) the proposal to constrain the allowable biological catch (ABC) specified for Atlantic mackerel by the long-term potential catch (LTPC) estimate, and (3) the proposed exemptions from the *Loligo* minimum mesh requirement. The proposed rule requested the public to comment on all proposed measures, but to focus on these in particular.

NMFS, on behalf of the Secretary of Commerce, reviewed Amendment 5 in light of the administrative record underlying it and the public comments received relative to the Amendment and the proposed rule. NMFS has decided, based upon this review, that several provisions of the Amendment are inconsistent with the national standards of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Therefore, the following measures have been disapproved: (1) The *Illex* moratorium, (2) the use of LTPC to cap ABC for Atlantic mackerel, and (3) the exemption from the minimum mesh requirement for the *Loligo* fishery for a vessel fishing for sea herring whose catch is comprised of 75 percent or more of sea herring.

Comments and Responses

A total of thirty commenters provided 14 substantively different comments on the proposed rule to implement Amendment 5. The commenters were members of Congress, industry associations, state agencies, the New England Fishery Management Council, and various individuals. Fourteen commenters supported and five opposed the Amendment in its entirety. The remaining eleven commenters opposed at least one management measure.

Comment 1: Seventeen commenters supporting the moratoria permit measures believe the fisheries for *Illex* and *Loligo* squid are at full harvesting capacity and urged quick approval.

Response 1: The fishery for *Loligo* is considered to be fully utilized or fully exploited while the fishery for *Illex* remains underutilized or underexploited. The *Loligo* moratorium was approved while the *Illex* moratorium was disapproved for the reasons stated in the following response.

Comment 2: Three commenters believed the Amendment satisfies National Standards 1, 4, and 5.

Response 2: NMFS reviewed the Amendment and determined that most of the Amendment was consistent with the Magnuson Act. However, NMFS determined that three measures were inconsistent with the national standards. NMFS disapproved the *Illex* moratorium, the minimum mesh

exemption for the sea herring fishery, and the use of LTPC to cap Atlantic mackerel ABC. The *Illex* moratorium is not consistent with National Standard 4, because the overall impact of the measure has discriminatory effects that render the allocation of fishing privileges in the *Illex* fishery unfair and inequitable. Specifically, the criteria arbitrarily exclude vessels that may have historically landed *Illex* catches smaller than 5,000 lb (2.27 mt) per trip. These vessels, which may have routinely caught more than the 2,500 lb (1.13 mt) incidental catch allowance specified in the Amendment, would be eliminated from the directed fishery under the threshold catch criterion. Employing a threshold catch criterion to qualify for the *Illex* moratorium that operates on a per/trip basis is less inclusive of such vessels than the *Loligo*/butterfish criteria, which required 20,000 lb (9.07 mt) of cumulative landings within a 30-day period. This discriminatory impact is further exacerbated by the fact that the extension of the qualifying period back to 1981 allows larger-scale past participants to qualify, even if they are not present participants in the fishery, while smaller-scale present participants do not.

The criterion that allows vessels equipped with refrigerated sea water systems (RSW) or plate or blast systems by May 1994 to qualify for a moratorium permit has the effect of revising the control date for a selected portion of the industry. There is no explanation as to why this select group should be treated differently from others in the fishery. As worded, the criterion would allow any vessel equipped with an RSW system or plate or blast freezers before the relevant date to qualify for a moratorium permit if the owner could demonstrate the required number of landings prior to the implementation date of this Amendment. This would allow vessels to enter the fishery that had never fished for *Illex* squid. This is not fair and equitable to those that have participated in the fishery and conflicts with the Council's goal to prevent overcapitalization in the fishery.

NMFS disapproved the sea herring exemption from the minimum mesh size for *Loligo*, because NMFS law enforcement officials advise that this measure is not enforceable. Ascertaining at-sea the percentage of herring in the entire catch is virtually impossible. The cost of establishing a system or procedure to measure the percentage of herring on board would be prohibitive. Consequently, this measure is inconsistent with National Standard 7.

NMFS disapproved the measure to cap the annual ABC specification for Atlantic mackerel, because such a cap on ABC would not allow the annual specifications to reflect variations and contingencies in the stock, which is inconsistent with National Standard 6. The most recent stock assessment estimates mean spawning stock biomass (SSB) at 2,100,000 mt. The annual specifications for 1996, which were calculated to maintain SSB at 900,000 mt, resulted in an ABC specification of 1,175,500 mt. The current stock assessment estimates LTPC at 150,000 mt/year. Consequently, the constrained level of ABC would not be reasonably reflective of the size of the Atlantic mackerel stock.

Comment 3: Six commenters want to alter the vessel replacement provisions proposed in Amendment 5 by allowing vessel upgrades to 10 percent and allowing vessel characteristics from multiple vessels to be combined into one vessel. One commenter thought vessel replacement should be based on carrying capacity.

Response 3: These proposed changes were not contained in the proposed rule because they were not offered as measures in Amendment 5. A further amendment to the FMP would be needed to accomplish these changes. The commenters should direct these comments to the Council.

Comment 4: Ten commenters opposed Amendment 5, believing that the *Illex* moratorium is discriminatory.

Response 4: The *Illex* moratorium was disapproved, as noted above.

Comment 5: Nine commenters opposed the *Illex* moratorium permit on the basis that *Illex* is underutilized.

Response 5: The *Illex* moratorium was disapproved because of its inconsistency with National Standard 4, not because the fishery is not fully utilized. While recent harvest levels have not approached the MSY, recent scientific information strongly suggests that the MSY should be adjusted downward in response to new life history information. This is likely to result in a revised assessment of the utilization status of the species. In any event, the issue of whether or not to impose a moratorium in the *Illex* fishery is within the prerogative of the Council. If the Council believes that a moratorium is necessary and appropriate for the conservation of the *Illex* fishery, and develops an administrative record that leads NMFS to conclude that the moratorium is consistent with the Magnuson Act and other applicable law, it will be approved.

Comment 6: Six commenters believed that the moratorium on *Illex* would deprive displaced groundfish vessels of an alternative fishery.

Response 6: See response to Comment 5.

Comment 7: Three commenters opposed both moratoria permits on the grounds that they do not follow the limited entry guidelines discussed in the Magnuson Act.

Response 7: The Council did consider the provisions of section 303(b)(6) expressly in the Amendment. The several factors noted in this section merely have to be taken into account by the Council in determining whether to limit access to a fishery. It is up to the Council what weight, if any, should be accorded to any of these factors or whether or not to make a provision in the Amendment for any of the factors.

Comment 8: One commenter opposed the refrigerated seawater/blast freezer provision for the *Illex* moratorium permit.

Response 8: The *Illex* moratorium was disapproved, as noted above.

Comment 9: One commenter felt that the Council can accomplish its goals only by establishing a moratorium eligibility criterion that considers the three moratorium species together as a unit for purposes of qualifying for a moratorium permit. He proposed raising the criterion to 50,000 lb (22.7 mt) of landings per year, in any 2 years during the qualification period, for any one or any combination of the three species.

Response 9: The Council analyzed the impact of using the same qualifying criteria for all three fisheries and determined that it would defeat the purpose of the limited entry provision and increase the chances of overcapitalization in the industry. A 50,000 lb (22.7 mt) criterion as described in the comment, is not discussed as an alternative in the Amendment. The Council may exercise its judgment as to how best to accomplish its management goals. The Secretary will support the Council's judgment if it is consistent with the Magnuson Act and other applicable law.

Comment 10: Four commenters believed that the *Illex* moratorium should be disapproved pending further scientific investigation.

Response 10: The *Illex* moratorium was disapproved. However, the 21st Northeast Regional Stock Assessment Workshop (SAW 21) reassessed both squid stocks and the results of the assessment and the SAW members' management advice will be available soon.

Comment 11: One commenter believed the Council would use the

same qualifying criteria as was used to determine eligibility for the summer flounder moratorium permit and invested money into refitting his vessel. He protested the fact that his vessel will not qualify for the squid fisheries under the criteria specified in the Amendment.

Response 11. The Council has the authority to propose regulations that are unique to an individual fishery. It is unfortunate that the commenter invested money without making inquiries about possible qualifying criteria. The fact that the Council intended to use criteria different than those in the summer flounder moratorium was well known before Amendment 5 was taken to public hearings.

Comment 12: One commenter stated that Article 1, section 9 of the *United States Constitution* states that ''no bill of Attainder or ex-post facto Law shall be passed,'' yet the time frame for qualifying for the moratorium permits was clearly retroactive, having been announced in June of 1994. The commenter felt that this retroactive date disqualified him for a moratorium permit without due process.

Response 12: The rule implementing the moratorium is not a bill of Attainder; it neither rises to the level of a legislative act, nor pronounces an individual guilty of a crime without due process. The use of a date that precedes the publication date of this rule as a basis for qualifying for a moratorium permit does not amount to an ''ex-post facto Law.'' A control date document was published in the Federal Register on August 13, 1992 (57 FR 36384). This legal document advised the public that entry into the fishery after its publication date might not guarantee future access to the fishery if the Council developed an amendment to the FMP that limited access. The control date was later changed by the Council when it adopted August 13, 1993, in the Amendment as the end date for the qualifying period. Consequently, the fact that the control date could be used as a qualifying criterion was announced to the public long before this rule was published.

The publication of the control date signified the inception of a long process that differentiates the legislative from the rulemaking process. During this process, Amendment 5, which included the control date and qualification period, was developed, debated, subjected to public scrutiny, and finally adopted by the Council for submission to NMFS. The control date criterion was not adopted after the fact, as the public was aware of the control date throughout the process. To prevent the Council from choosing a moratorium qualifying date that preceded the date of the final rule would seriously impair the value of any moratorium; the time needed to bring a fishery management plan or amendment containing a moratorium provision to the implementation stage would allow for a dramatic increase in effort in the fishery affected, thereby thwarting the Council's ability to limit effort and conserve the resource. This result runs contrary to the broad responsibility invested in the Council by the framers of the Magnuson Act.

Comment 13: Two commenters believed that a mesh size of 2⅜ inches, as opposed to 1⅞ inches, is needed in the *Loligo* fishery to address issues of juvenile escapement of *Loligo* and discard of small scup and butterfish.

Response 13: No mesh selectivity studies have been done to analyze the effect of different mesh sizes and configuration on the escapement of juvenile squid. Thus, no scientific support exists for the commenter's contention. New Jersey fishermen testified that they use 1⅞ inch mesh and experienced no problems of juvenile escapement. The imposition of a minimum mesh size is an important first step in conserving the resource. NMFS has encouraged the Council to investigate the escapement issue and to adjust the mesh size through the framework mechanism in Amendment 5, should the Council's conclusions warrant such action.

Comment 14: The overfishing definitions for *Loligo* and *Illex* squid are outdated and meaningless.

Response 14: Amendment 5 does not propose new overfishing definitions for the squids. SAW 21 reassessed both squid species and the results of that assessment will be used to establish new overfishing definitions. Such definitions must be implemented by a future plan amendment.

Changes From the Proposed Rule

Since three management measures published in the proposed rule are disapproved, the following provisions have been removed: Provisions at § 655.4 and other appropriate sections regarding the issuance or use of a *Loligo* moratorium permit; the provision at § 655.22(b)(2) that would use LTPC to constrain ABC for Atlantic mackerel; and the sea herring exemption at § 655.25(a)(2).

Classification

The Director, Northeast Region, NMFS, determined that the approved measures of Amendment 5 are necessary for the conservation and management of the Atlantic Mackerel, Squid, and Butterfish Fisheries and that they are consistent with the Magnuson Act and other applicable laws.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy, Small Business Administration, that this rule would not have a significant economic impact on a substantial number of small entities. The reasons were published in the proposed rule on December 20, 1995 (60 FR 65618). As such, no regulatory flexibility analysis was required and none has been prepared.

This final rule contains collection-of-information requirements subject to review and approval by OMB under the Paperwork Reduction Act (PRA). The collection of this information has been approved by OMB under control numbers 0648–0229, 0648–0018, 0648–0212, 0648–0202, and 0648–0306. The response times for these requirements are estimated to be: 2 minutes per response for dealer reporting, 6 minutes per response for employment data, 30 minutes per response for vessel permits and vessel permit appeals, 45 minutes per response for vessel I.D. requirements, 1 hour per response for operator permits, 5 minutes per response for dealer permits, and 2 minutes per response for the observer notification requirement.

The response estimates shown include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding any of these burden estimates or any other aspect of the collection of information, including suggestions for reducing burdens, to Dr. Andrew Rosenberg and OMB (see **ADDRESSES**). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the PRA, unless that collection of information displays a current valid OMB Control Number.

This final rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 655

Fisheries, Reporting and recordkeeping requirements.

Dated: March 21, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902, 50 CFR parts 611 and 655 are amended as follows:

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, paragraph (b) the table is amended by adding in the left column under 50 CFR, in numerical order, ''655.4'', ''655.5'', ''655.6'', ''655.7'', and ''655.8'', and in the right column, in corresponding positions, the control numbers ''and –0212'', '' –0202'', ''and –0229'', '' –0018'', and '' –0306''.

PART 611—FOREIGN FISHING

3. The authority citation for part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

4. In § 611.50, paragraphs (b)(3), (b)(4)(i), and (b)(4)(ii) are revised to read as follows:

§ 611.50 Northwest Atlantic Ocean fishery.

* * * * *

(b) * * *

(3) *TALFF.* The Atlantic mackerel TALFF for the Northwest Atlantic Ocean fishery is published in the Federal Register. Current TALFFs are also available from the Regional Director. The procedure for determining and adjusting the Atlantic mackerel TALFF is set forth in 50 CFR part 655.

(4) * * *

(i) The other allocated species, namely: Atlantic herring, Atlantic mackerel, butterfish (as a bycatch of Atlantic mackerel), and river herring (including alewife, blueback herring, and hickory shad); and

(ii) The prohibited species, namely: American plaice, American shad, Atlantic cod, Atlantic menhaden, Atlantic redfish, Atlantic salmon, all marlin, all spearfish, sailfish, swordfish, black sea bass, bluefish, croaker, haddock, ocean pout, pollock, red hake, scup, sea turtles, sharks (except dogfish), silver hake, spot, striped bass, summer flounder, tilefish, yellowtail flounder, weakfish, white hake, short-finned squid, long-finned squid, windowpane flounder, winter flounder, witch flounder, Continental Shelf fishery resources, and other invertebrates (except non-allocated squids).

* * * * *

5. Part 655 is revised to read as follows:

PART 655—ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

Subpart A—General Provisions

Sec.

Subpart B—Management Measures

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 655.1 Purpose and scope.

(a) The regulations in this part govern the conservation and management of Atlantic mackerel, *Illex* squid, *Loligo* squid, and butterfish.

(b) The regulations governing fishing for Atlantic mackerel, *Illex* squid, *Loligo* squid, and butterfish by vessels other than vessels of the United States are contained in 50 CFR part 611.

(c) This part implements the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries of the Northwest Atlantic Ocean.

§ 655.2 Definitions.

In addition to the definitions in the Magnuson Act and in § 620.2 of this chapter, the terms used in this part have the following meanings:

Atlantic butterfish or *butterfish* means the species *Peprilus triacanthus*.

Atlantic mackerel or *mackerel* means the species *Scomber scombrus*.

Atlantic Mackerel, Squid, and Butterfish Monitoring Committee or Monitoring Committee means a committee made up of staff representatives of the Mid-Atlantic and New England Fishery Management Councils, and the Northeast Regional Office and Northeast Fisheries Science Center of NMFS. The Council Executive Director or a designee chairs the Committee.

Being rerigged means physical alteration of the vessel or its gear had begun to transform the vessel into one capable of fishing commercially for *Loligo* squid or butterfish.

Charter or *party boat* means any vessel that carries passengers for hire to engage in fishing.

Council means the Mid-Atlantic Fishery Management Council.

Dealer means any person who receives squid, mackerel, or butterfish for a commercial purpose, other than solely for transport on land, from the owner or operator of a vessel issued a permit under § 655.4.

Fishery Management Plan (FMP) means the Fishery Management Plan for the Atlantic mackerel, squid, and butterfish fisheries of the Northwest Atlantic Ocean, as revised by subsequent amendments.

Fishing for commercial purposes means any fishing or fishing activity that results in the harvest of Atlantic mackerel, squid, or butterfish, one or more of which (or parts thereof) is sold, traded, or bartered.

Fishing trip or *trip* means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel returns to port.

Gross registered tonnage (GRT) means the gross tonnage specified on the U.S. Coast Guard documentation.

Illex means the species *Illex illecebrosus* (short-finned or summer squid).

Joint venture harvest means U.S.-harvested Atlantic mackerel transferred to foreign vessels in the EEZ.

Land means to begin offloading fish or to offload fish at sea or on land, or to enter port with fish.

Liner means a piece of mesh rigged inside the main or outer net.

Loligo means the species *Loligo pealei* (long-finned or bone squid).

Metric ton (mt) means 1,000 kg or 2,204.6 lb.

Operator means the master, captain, or other individual aboard a fishing vessel and in charge of that vessel's operations.

Personal use means use not for sale, barter, or trade.

Postmark means independently verifiable evidence of date of mailing, such as U.S. Postal Service postmark, United Parcel Service (U.P.S.) or other private carrier postmark, certified mail receipt, overnight mail receipt, or receipt received upon hand delivery to an authorized representative of NMFS.

Recreational fishing means fishing that neither is intended to, nor results in, the barter, trade, or sale of fish.

Recreational fishing vessel means any vessel from which no fishing other than recreational fishing is conducted. Charter and party boats are not considered recreational fishing vessels.

Regional Director means the Director, Northeast Region, NMFS, 1 Blackburn Drive, Gloucester, MA 01930–2298, or a designee.

Reporting month means the period of time beginning at 0001 hours local time on the first day of each calendar month and ending at 2400 hours local time on the last day of each calendar month.

Reporting week means a period of time beginning at 0001 hours local time on Sunday and ending at 2400 hours local time the following Saturday.

Squid means *Loligo pealei* and *Illex illecebrosus.*

Substantially similar harvesting capacity means the same or less GRT and vessel registered length for commercial vessels.

Transfer means to begin to remove, to pass over the rail, or otherwise take away fish from any vessel and move them to another conveyance.

Under construction means that the keel has been laid.

Vessel registered length means the registered length specified on U.S. Coast Guard Documentation, or state registration if the state registered length is verified by a NMFS authorized official.

§ 655.3 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 620.3 of this chapter and paragraphs (b) through (d) of this section.

(b) Additional regulations governing domestic fishing for Northeast Multispecies, which affect this part, are found at 50 CFR part 651.

(c) Additional regulations governing domestic fishing for summer flounder, which affect this part, are found at 50 CFR part 625.

(d) Nothing in these regulations supersedes more restrictive state management measures.

§ 655.4 Vessel permits.

(a) *General*—(1) *Requirement.* Beginning on January 1, 1997, any vessel of the United States, including party or charter vessels, that fishes for, possesses, or lands Atlantic mackerel, squid, or butterfish in or from the EEZ, must have been issued and carry on board a valid *Loligo* squid and butterfish moratorium permit, or a valid incidental catch permit, or a valid Atlantic mackerel and *Illex* squid permit, or a valid party or charterboat permit issued under this section. This requirement does not apply to recreational fishing vessels. Until January 1, 1997, vessels that have been issued 1995 Federal squid, mackerel, and butterfish permits and are not otherwise subject to permit sanctions due to enforcement proceedings, may fish for, possess, or land squid, Atlantic mackerel or butterfish in or from the EEZ.

(2) *Condition.* Vessel owners who apply for a fishing vessel permit under this section must agree as a condition of the permit that the vessel's fishing activities, catch and pertinent gear (without regard to whether such fishing occurs in or from the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken or landed) will be subject to all requirements of this part. All such fishing activities, catch and gear will remain subject to all applicable state requirements. If a requirement of this part differs from a management measure required by state law, any vessel owner permitted to fish in the EEZ must comply with the more restrictive requirement.

(b) *Moratorium permit*—(1) *Loligo squid and butterfish.* A vessel is eligible for a moratorium permit to fish for and retain *Loligo* squid or butterfish in excess of the incidental catch allowance specified in paragraph (c)(1) of this section, if it meets any of the following criteria:

(i) The vessel landed and sold at least 20,000 lb (9.07 mt) of *Loligo* or butterfish in any 30-consecutive-day period between August 13, 1981, and August 13, 1993; or

(ii) The vessel is replacing a vessel of substantially similar harvesting capacity that involuntarily left the *Loligo* or butterfish fishery during the effective period of the moratorium, and both the entering and replaced vessels are owned by the same person. Vessel permits issued to vessels that involuntarily leave the fishery may not be combined to create larger replacement vessels.

(iii) Vessels that are judged unseaworthy by the U.S. Coast Guard for reasons other than lack of maintenance may be replaced by a vessel of substantially similar harvesting capacity during the effective period of the moratorium.

(2) *Restriction.* No one may apply for the permit specified in paragraph (b)(1) of this section more than 12 months after the effective date of these regulations, or the event specified under paragraph (i)(1) of this section. This section does not affect annual permit renewals.

(3) *Appeal of denial of permit.* (i) Any applicant denied a moratorium permit may appeal to the Regional Director within 30 days of the notice of denial. Any such appeal shall be in writing. The only ground for appeal is that the Regional Director erred in concluding that the vessel did not meet the criteria in paragraph (b)(1)(i) of this section. The appeal shall set forth the basis for the applicant's belief that the Regional Director's decision was made in error.

(ii) The appeal may be presented, at the option of the applicant, at a hearing before an officer appointed by the Regional Director.

(iii) The hearing officer shall make a recommendation to Regional Director.

(iv) The decision on the appeal by the Regional Director is the final decision of the Department of Commerce.

(c) *Incidental catch permit.* (1) Any vessel of the United States may obtain a permit to fish for or retain up to 2,500 lb (1.13 mt) of *Loligo* squid or butterfish as an incidental catch in another directed fishery.

(2) *Adjustments to the incidental catch.* The incidental catch allowance may be revised by the Regional Director based upon a recommendation by the Council following the procedure set forth in § 655.22. NMFS will publish an adjustment in the Federal Register. The public may comment on the adjustment for 30 days after the date of publication. After consideration of public comments, NMFS may publish a notification of adjustment to the incidental catch allowance in the Federal Register.

(d) *Atlantic mackerel and Illex squid permit.* The owner of any vessel of the United States must obtain a permit under this part to fish for or retain Atlantic mackerel or *Illex* squid in or from the EEZ.

(e) *Party and charter boat permit.* The owner of any party or charter boat must obtain a permit under this part to fish for or retain in or from the EEZ Atlantic mackerel, squid or butterfish while carrying passengers for hire.

(f) *Vessel permit application.* (1) An application for a permit under this section must be submitted and signed by the owner of the vessel on an appropriate form obtained from the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective. The Regional Director will

notify the applicant of any deficiency in the application pursuant to this section. Applicants for moratorium permits shall provide information with the application sufficient for the Regional Director to determine if the vessel meets any eligibility requirements. Dealer weighout forms, joint venture receipts, and notarized statements from marine architects or surveyors or shipyard officials will be considered acceptable forms of proof.

(2) *Information requirements.* In addition to applicable information required to be provided by paragraph (f)(1) of this section, an application for a permit under this section must contain at least the following information, and any other information required by the Regional Director: Vessel name; owner name, mailing address, and telephone number; U.S. Coast Guard documentation number and a valid copy of the vessel's U.S. Coast Guard documentation or, if undocumented, the state registration number and a copy of the current state registration; home port and principal port of landing; overall length; gross tonnage; net tonnage; engine horsepower; year the vessel was built; type of construction; type of propulsion; approximate fish hold capacity; type of fishing gear used by the vessel; number of crew; permit category; if the owner is a corporation, a copy of the Certificate of Incorporation showing the principals in the corporation, and the names and addresses of all shareholders owning 25 percent or more of the corporation's shares; if the owner is a partnership, a copy of the Partnership Agreement and the names and addresses of all partners; if there is more than one owner, names of all owners that have acquired more than a 25-percent interest; the name and signature of the owner or the owner's authorized representative; permit number of any current or, if expired, previous Federal fishery permit issued to the vessel; and a copy of the charter/party boat license and number of passengers the vessel is licensed to carry (charter and party boats); and any other information required by the Regional Director to manage the fishery.

(g) *Fees.* The Regional Director may charge a fee to recover administrative expenses of issuing a permit required under this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook (available from Regional Director) for determining administrative costs of each special product or service. The fee may not exceed such costs and is specified on each application form. The appropriate fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (h) of this section. Any fee paid by an insufficient commercial instrument shall render any permit issued on the basis thereof null and void.

(h) *Issuance.* (1) Except as provided in subpart D of 15 CFR part 904, the Regional Director will issue a permit under this section within 30 days of receipt of the application unless:

(i) The applicant has failed to submit a complete application as described in paragraph (f) of this section. An application is complete when all requested forms, information, documentation, and fees, if applicable, have been received; or

(ii) The application was not received by the Regional Director by the deadlines set forth in paragraph (b)(3) of this section; or

(iii) The applicant has failed to comply with all applicable reporting requirements of § 655.7 during the 12 months immediately preceding the date of the application.

(2) Upon receipt of an incomplete application, or an application from a person who has not complied with all applicable reporting requirements of § 655.7 during the 12 months immediately preceding the application, the Regional Director will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the Regional Director's notification, the application will be deemed abandoned.

(i) *Expiration.* Except as provided in paragraph (b)(1)(ii) of this section, a permit expires:

(1) When the owner retires the vessel from the fishery;

(2) Upon the renewal date specified on the permit; or

(3) When the ownership of the vessel changes; however, the Regional Director may authorize the continuation of a moratorium permit for the *Loligo* squid and butterfish fisheries if the new owner requests. Applications for permit continuations must be addressed to the Regional Director.

(j) *Duration.* A permit is valid until it is revoked, suspended, or modified under 15 CFR part 904, or until it otherwise expires, or ownership changes, or the applicant has failed to report any change in the information on the permit application to the Regional Director as specified in paragraph (m) of this section.

(k) *Replacement.* Replacement permits for an otherwise valid permit may be issued by the Regional Director when requested in writing by the owner or authorized representative, stating the need for replacement, the name of the vessel, and the Federal fisheries permit number assigned. An application for a replacement permit will not be considered a new application. An appropriate fee may be charged for issuance of the replacement permit.

(l) *Transfer.* Permits issued under this part are not transferable or assignable. A permit is valid only for the fishing vessel and owner for which it is issued.

(m) *Change in application information.* Any change in the information specified in paragraph (f)(2) of this section must be submitted by the applicant in writing to the Regional Director within 15 days of the change. If the written notice of the change in information is not received by the Regional Director within 15 days, the permit is null and void.

(n) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(o) *Display.* The permit must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(p) *Sanctions.* Procedures governing enforcement-related permit sanctions and denials are found at subpart D of 15 CFR part 904.

§ 655.5 Operator permit.

(a) *General.* Beginning June 3, 1996, any operator of a vessel issued a valid Federal Atlantic mackerel, *Loligo, Illex,* or butterfish permit under this part, or any operator of a vessel fishing for Atlantic mackerel, *Loligo, Illex,* or butterfish in the EEZ or in possession of Atlantic mackerel, *Loligo, Illex,* or butterfish in or harvested from the EEZ, must have and carry on board a valid operator's permit issued under this part. An operator permit issued pursuant to part 649, 650, or 651 shall satisfy the permitting requirement of this section.

(b) *Operator application.* Applicants for a permit under this section must submit a completed permit application on an appropriate form obtained from the Regional Director. The application must be signed by the applicant and submitted to the Regional Director at least 30 days prior to the date on which the applicant desires to have the permit made effective. The Regional Director will notify the applicant of any deficiency in the application pursuant to this section.

(c) *Condition.* Vessel operators who apply for an operator's permit under this section must agree as a condition of this permit that the operator and vessel's fishing, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken,

or landed), are subject to all requirements of this part while fishing in the EEZ or on board a vessel permitted under § 655.4. The vessel and all such fishing, catch, and gear will remain subject to all applicable state or local requirements. Further, such operators must agree as a condition of this permit that, if the permit is suspended or revoked pursuant to 15 CFR part 904, the operator cannot be aboard any fishing vessel issued a Federal Fisheries Permit or any vessel subject to Federal fishing regulations while the vessel is at sea or engaged in offloading. If a requirement of this part and a management measure required by state or local law differ, any operator issued a permit under this part must comply with the more restrictive requirement.

(d) *Information requirements.* An applicant must provide at least all the following information and any other information required by the Regional Director: Name, mailing address, and telephone number; date of birth; hair color; eye color; height; weight; social security number (optional); and signature of the applicant. The applicant must also provide two recent (no more than 1 year old) color passport-size photographs.

(e) *Fees.* The Regional Director may charge a fee to recover the administrative expense of issuing a permit required under this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified on each application form. The appropriate fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (f) of this section. Any fee paid by an insufficiently funded commercial instrument shall render any permit issued on the basis thereof null and void.

(f) *Issuance.* Except as provided in subpart D of 15 CFR part 904, the Regional Director shall issue an operator's permit within 30 days of receipt of a completed application if the criteria specified herein are met. Upon receipt of an incomplete or improperly executed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be deemed abandoned.

(g) *Expiration.* A Federal operator permit will expire upon the renewal date specified in the permit.

(h) *Duration.* A permit is valid until it is revoked, suspended or modified under 15 CFR part 904, or otherwise expires, or the applicant has failed to report a change in the information on the permit application to the Regional Director as specified in paragraph (k) of this section.

(i) *Replacement.* Replacement permits, for otherwise valid permits, may be issued by the Regional Director when requested in writing by the applicant, stating the need for replacement and the Federal operator permit number assigned. An applicant for a replacement permit must also provide two recent color passport-size photos of the applicant. An application for a replacement permit will not be considered a new application. An appropriate fee may be charged.

(j) *Transfer.* Permits issued under this section are not transferable or assignable. A permit is valid only for the person to whom it is issued.

(k) *Change in application information.* Notice of a change in the permit holder's name, address, or telephone number must be submitted in writing to, and received by, the Regional Director within 15 days of the change in information. If written notice of the change in information is not received by the Regional Director within 15 days, the permit is void.

(l) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(m) *Display.* Any permit issued under this part must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(n) *Sanctions.* Vessel operators with suspended or revoked permits may not be aboard a federally permitted fishing vessel in any capacity while the vessel is at sea or engaged in offloading. Procedures governing enforcement related permit sanctions and denials are found at subpart D of 15 CFR part 904.

(o) *Vessel owner responsibility.* Vessel owners are responsible for ensuring that their vessels are operated by an individual with a valid operator's permit issued under this section.

§ 655.6 Dealer permit.

(a) *General.* Beginning on January 1, 1997, all dealers must have a valid permit issued under this part in their possession.

(b) *Dealer application.* Applicants for a permit under this section must submit a completed application on an appropriate form provided by the Regional Director. The application must be signed by the applicant and submitted to the Regional Director at least 30 days before the date upon which the applicant desires to have the permit made effective. The Regional Director will notify the applicant of any deficiency in the application pursuant to this section.

(c) *Information requirements.* Applications must contain at least the following information and any other information required by the Regional Director: Company name, place(s) of business, mailing address(es) and telephone number(s), owner's name; dealer permit number (if a renewal); and name and signature of the person responsible for the truth and accuracy of the report. If the dealer is a corporation, a copy of the Certificate of Incorporation must be included with the application. If the dealer is a partnership, a copy of the Partnership Agreement and the names and addresses of all partners must be included with the application.

(d) *Fees.* The Regional Director may charge a fee to recover the administrative expense of issuing a permit required under this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (e) of this section. Any fee paid by an insufficiently funded commercial instrument shall render any permit issued on the basis thereof null and void.

(e) *Issuance.* Except as provided in subpart D of 15 CFR part 904, the Regional Director will issue a permit at any time during the fishing year to an applicant unless the applicant has failed to submit a completed application. An application is complete when all requested forms, information, and documentation have been received and the applicant has submitted all applicable reports specified in § 655.7(a). Upon receipt of an incomplete or improperly executed application, the Regional Director will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be deemed abandoned.

(f) *Expiration.* A permit will expire upon the renewal date specified in the permit.

(g) *Duration.* A permit is valid until it is revoked, suspended, or modified

under 15 CFR part 904, or otherwise expires, or ownership changes, or the applicant has failed to report any change in the information on the permit application to the Regional Director as required by paragraph (j) of this section.

(h) *Replacement.* Replacement permits, for otherwise valid permits, may be issued by the Regional Director when requested in writing by the applicant, stating the need for replacement and the Federal dealer permit number assigned. An application for a replacement permit will not be considered a new application. An appropriate fee may be charged.

(i) *Transfer.* Permits issued under this part are not transferable or assignable. A permit is valid only for the person to whom, or other business entity to which, it is issued.

(j) *Change in application information.* Within 15 days after a change in the information contained in an application submitted under this section, a written report of the change must be submitted to, and received by, the Regional Director. If written notice of the change in information is not received by the Regional Director within 15 days, the permit is void.

(k) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(l) *Display.* Any permit, or a valid duplicate thereof, issued under this part must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(m) *Federal versus state requirements.* If a requirement of this part differs from a fisheries management measure required by state law, any dealer issued a Federal dealer permit must comply with the more restrictive requirement.

(n) *Sanctions.* Procedures governing enforcement-related permit sanctions and denials are found at subpart D of 15 CFR part 904.

§ 655.7 Recordkeeping and reporting requirements.

(a) *Dealers*—(1) *Weekly report.* Beginning on January 1, 1997, dealers must send by mail, to the Regional Director or official designee, on a weekly basis, on forms supplied by or approved by the Regional Director, a report of fish purchases. If authorized in writing by the Regional Director, dealers may submit reports electronically or through other media. The following information and any other information required by the Regional Director must be provided in the report: Name and mailing address of dealer; dealer number; name and permit number of the vessels from which fish are landed or received; dates of purchases; pounds by species; price by species; and port landed. If no fish are purchased during the week, a report so stating must be submitted. All report forms must be signed by the dealer or other authorized individual.

(2) *Annual report.* All persons required to submit reports under paragraph (a)(1) of this section are required to complete the ''Employment Data'' section of the Annual Processed Products Reports; completion of the other sections on that form is voluntary. Reports must be submitted to the address supplied by the Regional Director.

(3) *Inspection.* Upon the request of an authorized officer, or by an employee of NMFS designated by the Regional Director to make such inspections, the dealer must make immediately available for inspection copies of the required reports that have been submitted, or should have been submitted, and the records upon which the reports were based.

(4) *Record retention.* Copies of reports, and records upon which the reports were based, must be retained and available for review for 1 year after the date of the last entry on the report. The dealer must retain such reports and records at its principal place of business.

(5) *Submitting reports.* Reports must be received, or postmarked if mailed, within 3 days after the end of each reporting week. Each dealer will be sent forms and instructions, including the address to which to submit reports, shortly after receipt of a dealer permit.

(6) *At-sea activities.* All persons purchasing, receiving, or processing any mackerel, squid, or butterfish at sea for landing at any port of the United States must submit information identical to that required by paragraphs (a)(1) and (2) of this section and provide those reports to the Regional Director or designee on the same frequency basis.

(b) *Vessel owners*—(1) *Fishing log reports.* Beginning on January 1, 1997, the owner of any vessel issued a Federal Atlantic mackerel, *Loligo* squid, butterfish or *Illex* squid permit under § 655.4 must maintain on board the vessel, and submit, an accurate daily fishing log report for all fishing trips, regardless of species fished for or taken, on forms supplied by or approved by the Regional Director. If authorized in writing by the Regional Director, vessel owners may submit reports electronically. At least the following information, and any other information required by the Regional Director, must be provided: Vessel name, U.S. Coast Guard (USCG) documentation number (or state registration number if undocumented); permit number; date/time sailed; date/time landed; trip type; number of crew; number of anglers (if a charter or party boat); gear fished; quantity and size of gear; mesh/ring size; chart area fished; average depth; latitude/longitude (or loran station and bearings); total hauls per area fished; average tow time duration; pounds by species of all species landed or discarded; dealer permit number; dealer name; date sold; port and state landed; and vessel operator's name, signature, and operator permit number.

(2) *When to fill in the log.* Fishing log reports must be filled in, except for information required but not yet ascertainable, before offloading has begun. All information in paragraph (b)(1) of this section must be filled in for each fishing trip before starting the next fishing trip.

(3) *Inspection.* Upon the request of an authorized officer, or an employee of NMFS designated by the Regional Director to make such inspections, at any time during or after a trip, owners and operators must make immediately available for inspection the fishing log reports currently in use, or to be submitted.

(4) *Record retention.* Copies of the fishing log reports must be retained and available for review for 1 year after the date of the last entry on the report.

(5) *Submitting reports.* Fishing log reports must be received or postmarked, if mailed, within 15 days after the end of the reporting month. Each owner will be sent forms and instructions, including the address to which to submit reports, shortly after receipt of a Federal Fisheries Permit. If no fishing trip is made during a month, a report so stating must be submitted.

§ 655.8 Vessel identification.

(a) *Vessel name.* Each fishing vessel owner subject to this part must affix permanently the vessel's name on the port and starboard sides of the bow and, if possible, on its stern if the vessel is over 25 ft (7.6 m) in length.

(b) *Official number.* Each fishing vessel owner subject to this section must display the vessel's official number on the port and starboard sides of its deckhouse or hull, and on an appropriate weather deck, so as to be visible from above by enforcement vessels and aircraft if the vessel is over 25 ft (7.6 m) in length. The official number is the U.S. Coast Guard documentation number, or the vessel's state registration number for vessels not required to be documented under title 46 of the United States Code.

(c) *Numerals.* Except as provided in paragraph (e) of this section, the official

number must be permanently affixed in block arabic numerals in contrasting color at least 18 inches (45.7 cm) in height for vessels over 65 ft (19.8 m) in length, and at least 10 inches (25.4 cm) in height for all other vessels over 25 ft (7.6 m) in length.

(d) *Duties of owner.* Any vessel owner subject to this part will:

(1) Keep the vessel's name and official number clearly legible and in good repair; and

(2) Ensure that no part of the vessel, its rigging, its fishing gear, or any other object obstructs the view of the official number from any enforcement vessel or aircraft.

(e) *Nonpermanent marking.* Vessels carrying recreational fishing parties on a per capita basis or by charter must use markings that meet the above requirements, except for the requirement that they be affixed permanently to the vessel. The nonpermanent markings must be displayed in conformity with the above requirements when the vessel is fishing for Atlantic mackerel, squid, or butterfish.

§ 655.9 Prohibitions.

(a) In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person owning or operating a vessel issued a valid Federal Atlantic mackerel, squid, or butterfish permit under § 655.4, or issued an operator permit under § 655.5, to do any of the following:

(1) Possess more than the incidental catch allowance of *Loligo* squid or butterfish unless issued a moratorium permit pursuant to § 655.4(b).

(2) Use any vessel for taking, catching, harvesting, or landing of any Atlantic mackerel, squid, or butterfish, except as provided in § 655.4(a), unless the vessel has on board a valid permit issued under § 655.4.

(3) Fail to report to the Regional Director within 15 days any change in the information contained in the permit application for a vessel, as specified in § 655.4(m).

(4) Falsify or fail to affix and maintain vessel markings as required by § 655.8.

(5) Take, retain, or land Atlantic mackerel, squid, or butterfish in excess of a trip allowance specified under § 655.23.

(6) Take, retain, or land Atlantic mackerel, squid, or butterfish after a total closure specified under § 655.23.

(7) Make any false statement, written or oral, to an authorized officer, concerning the taking, catching, landing, purchase, sale, or transfer of any mackerel, squid, or butterfish.

(8) Fish with or possess nets or netting that do not meet the minimum mesh requirement for *Loligo* specified in § 655.25(a) or that are modified, obstructed, or constricted, if subject to the minimum mesh requirement, unless the nets or netting are stowed in accordance with § 655.25(b) or the vessel is fishing under an exemption specified in § 655.25(a).

(9) Sell or transfer Atlantic mackerel, squid, or butterfish to another person for a commercial purpose, other than transport, unless that person has a dealer permit issued under § 655.6.

(10) Falsify information in order to qualify a vessel for a moratorium permit pursuant to § 655.4(b).

(11) Transfer squid, or butterfish at sea to another vessel unless that other vessel is issued a valid moratorium permit issued pursuant to § 655.4(b) or a letter of authorization issued by the Regional Director.

(12) Fail to comply with any measures implemented pursuant to § 655.22.

(13) Refuse to embark an observer if requested by the Regional Director.

(14) Assault, resist, oppose, impede, harass, intimidate, or interfere with or bar by command, impediment, threat, coercion or refusal of reasonable assistance an observer conducting his or her duties aboard a vessel.

(15) Carry passengers for hire while fishing commercially under a permit issued pursuant to § 655.4(b), § 655.4(c), or § 655.4(d).

(16) Fail to carry on board a letter of authorization if fishing in an experimental fishery pursuant to § 655.30.

(17) Employ an operator aboard a vessel who has not been issued an operator permit that meets the requirements of § 655.5.

(b) It is unlawful for the owner and operator of a party or charter boat issued a permit (including a moratorium permit) pursuant to § 655.4, when the boat is carrying passengers for hire, to do any of the following:

(1) Violate any recreational fishing measures established pursuant to § 655.22(d)

(2) Sell or transfer Atlantic mackerel, squid, or butterfish to another person for a commercial purpose.

(3) Refuse to embark an observer if requested by the Regional Director.

(c) It is unlawful for any person to do any of the following:

(1) Possess in or harvest from the EEZ Atlantic mackerel, squid, or butterfish unless the person is operating a vessel, other than a recreational fishing vessel, issued a permit pursuant to § 655.4, and the permit is on board the vessel, and has not been surrendered, revoked, or suspended.

(2) Possess nets or netting with mesh not meeting the minimum size requirement of § 655.25 that do not meet the net stowage provisions of § 655.25, if the person possesses *Loligo* squid harvested in or from the EEZ.

(3) If subject to the permitting requirements in § 655.4, § 655.5, or § 655.6, to offload, to cause to be offloaded, sell or buy, whether on land or at sea, as an owner, operator, dealer, buyer, or receiver, without accurately and completely preparing and submitting in a timely fashion the documents required by § 655.7.

(4) Transfer *Loligo* squid or butterfish within the EEZ, unless the vessels participating in the transfer are issued valid moratorium permits pursuant to § 655.4(b) or valid letters of authorization pursuant to § 655.29.

(5) Purchase or otherwise receive, except for transport on land, Atlantic mackerel, squid, or butterfish from the owner or operator of a vessel issued a permit pursuant to § 655.4, unless in possession of a valid permit issued under § 655.6.

(6) Purchase or otherwise receive for a commercial purpose, Atlantic mackerel, squid, or butterfish caught by other than a vessel issued a permit pursuant to § 655.4, unless the vessel has not been issued a permit under this part and is fishing exclusively within the waters under the jurisdiction of any state.

(7) Make any false statements, oral or written, to an authorized officer concerning the catching, taking, harvesting, landing, purchase, sale, possession, or transfer of any Atlantic mackerel, squid, or butterfish.

(8) Fail to report to the Regional Director within 15 days any change in information contain in the permit application.

(9) Assault, resist, impede, oppose, harass, intimidate, or interfere with or bar by command, impediment, threat, coercion, or refusal of reasonable assistance to an observer conducting his or her duties aboard a vessel.

(10) Operate a vessel fishing for Atlantic mackerel, squid, or butterfish within the EEZ, unless issued an operator permit that meets the requirements of § 655.5.

(11) Violate any other provisions of this part, the Magnuson Act, or any regulation or permit issued under the Magnuson Act.

(d) All Atlantic mackerel and butterfish possessed on board a party or charter boat issued a permit under § 655.4 are deemed to have been harvested from the EEZ.

(e) It is unlawful for any person to violate any terms of a letter authorizing experimental fishing pursuant to § 655.30 or to fail to keep such letter on

board the vessel during the period of the experiment.

§ 655.10 Facilitation of enforcement.

See § 620.8 of this chapter.

§ 655.11 Penalties.

See § 620.9 of this chapter.

Subpart B—Management Measures

§ 655.20 Fishing year.

The fishing year is the 12-month period beginning on January 1 and ending on December 31.

§ 655.21 Maximum optimum yields.

The optimum yields (OYs) specified pursuant to § 655.22 during a fishing year may not exceed the following amounts:

(a) Atlantic mackerel: That quantity of mackerel that is less than or equal to ABC specified pursuant to § 655.22;

(b) *Loligo* squid: 36,000 mt (79,362,000 lb);

(c) *Illex* squid: 30,000 mt (66,135,000 lb); and

(d) Butterfish: 16,000 mt (35,272,000 lb).

§ 655.22 Procedures for determining initial annual amounts.

(a) *Initial annual specifications.* The Atlantic Mackerel, Squid, and Butterfish Monitoring Committee (Monitoring Committee) will meet annually to develop specifications regarding:

(1) The initial optimum yield (IOY), domestic annual harvest (DAH), and domestic annual processing (DAP) for the squids;

(2) The IOY, DAH, DAP and bycatch level of the total allowable level of foreign fishing (TALFF), if any, for butterfish; and

(3) The IOY, DAH, DAP, joint venture processing (JVP), if any, and TALFF, if any, for Atlantic mackerel.

(4) The Monitoring Committee will recommend these specifications to the Mackerel, Squid, and Butterfish Committee (Committee) of the Council. As a basis for establishing these specifications and restrictions, the Monitoring Committee will review available data pertaining to the following:

(i) Commercial and recreational landings;

(ii) Current estimates of fishing mortality;

(iii) Stock status;

(iv) The most recent estimates of recruitment;

(v) Virtual population analysis results;

(vi) Levels of noncompliance by harvesters or individual states;

(vii) Impact of size/mesh regulations;

(viii) The results of a survey of domestic processors and joint venture operators of estimated Atlantic mackerel processing capacity and intent to use that capacity;

(ix) The results of a survey of fishermen's trade associations of estimated Atlantic mackerel harvesting capacity and intent to use that capacity;

(x) Any other relevant information.

(b) *Guidelines.* The specifications determined pursuant to paragraph (a) by the Monitoring Committee will be consistent with the following guidelines:

(1) *Squid.* (i) The most recent biological data, including data on discards, will be reviewed annually under the procedures specified in paragraph (a) of this section. ABC for any fishing year is either the maximum OY specified in § 655.21, or a lower amount if stock assessments indicate that the potential yield is less than the maximum OY.

(ii) IOY is a modification of ABC based on social and economic factors.

(2) *Atlantic mackerel.* (i) Atlantic mackerel ABC, the allowable biological catch in U.S. waters, is derived using the following terms: C=the estimated catch of mackerel in Canadian waters for the upcoming fishing year; S=the mackerel spawning stock size at the beginning of the year for which quotas are specified; and T=a spawning stock size that must be maintained in the year following the year for which quotas are specified, where T≥900,000 mt(1,984,050,000 lbs). Consequently, ABC=S-C-T.

(ii) IOY is less than or equal to ABC and represents a modification of ABC, based on social and economic factors.

(iii) IOY is composed of DAH and TALFF. DAH, DAP and JVP are projected by reviewing data from sources specified in this paragraph (a) and other relevant data including past domestic landings, projected amounts of mackerel necessary for domestic processing and for joint ventures during the fishing year, projected recreational landings, and other data pertinent for such a projection. The JVP component of DAH is the portion of DAH that domestic processors either cannot or will not use. In addition, IOY is based on such criteria as contained in the Magnuson Act, specifically section 201(e), and the application of the following economic factors:

(A) Total world export potential by mackerel producing countries;

(B) Total world import demand by mackerel consuming countries;

(C) U.S. export potential based on expected U.S. harvests, expected U.S. consumption, relative prices, exchange rates, and foreign trade barriers;

(D) Increased/decreased revenues to the U.S. from foreign fees;

(E) Increased/decreased revenues to U.S. harvesters (with/without joint ventures);

(F) Increased/decreased revenues to U.S. processors and exporters;

(G) Increases/decreases in U.S. harvesting productivity due to decreases/increases in foreign harvest;

(H) Increases/decreases in U.S. processing productivity; and

(I) Potential impact of increased/decreased TALFF on foreign purchases of U.S. products and services and U.S.-caught fish, changes in trade barriers, technology transfer, and other considerations.

(iv) The Council may also recommend that certain ratios of TALFF to purchases of domestic harvested fish and/or domestic processed fish be established in relation to the initial annual amounts.

(3) *Butterfish.* (i) The most recent biological data, including data on discards, will be reviewed annually under the procedures specified in paragraph (a) of this section. If this review indicates that the stock cannot support a level of harvest equal to the maximum OY, the Council will recommend establishing an ABC less than the maximum OY for the fishing year. This level represents the modification of maximum OY to reflect biological and ecological factors. If the stock is able to support a harvest level equivalent to the maximum OY, the ABC is to be set at that level.

(ii) IOY is a modification of ABC based on social and economic factors. The IOY is composed of a DAH and bycatch TALFF which is equal to 0.08 percent of the allocated portion of the Atlantic mackerel TALFF.

(c) *Adjustments.* The specifications established pursuant to this section may be adjusted by the Regional Director, in consultation with the Council, during the fishing year by publishing a notification in the Federal Register stating the reasons for such an action with a 30-day comment period.

(d) *Recommended measures.* Based on the review of the data described in paragraph (a) of this section, the Monitoring Committee will recommend to the Committee the following measures it determines are necessary to assure that the specifications are not exceeded:

(1) Commercial quotas;

(2) The amount of *Loligo* squid and butterfish that may be retained, possessed and landed by vessels issued the incidental catch permit specified in § 655.4(c);

(3) Commercial minimum fish sizes;

(4) Commercial trip limits;

(5) Commercial seasonal quotas;

(6) Minimum mesh sizes;

(7) Commercial gear restrictions;

(8) Recreational harvest limit;

(9) Recreational minimum fish size;

(10) Recreational possession limits;

(11) Recreational season.

(e) *Annual fishing measures.* (1) The Committee shall review the recommendations of the Monitoring Committee. Based on these recommendations and any public comment, the Committee shall make its recommendations to the Council with respect to the specifications and any other measures necessary to assure that the specifications are not exceeded. The Council shall review these recommendations. Based on these recommendations, and any public comment, the Council shall make recommendations to the Regional Director. Included in the recommendation will be supporting documents, as appropriate, concerning the environmental, economic, and social impacts of the proposed action. The Regional Director will review these recommendations, and on or about November 1 of each year, and will publish a notification in the Federal Register of proposed specifications and any other measures necessary to assure that the specifications are not exceeded. If the specifications differ from those recommended by the Council, the reasons for any differences must be clearly stated and the revised specifications must satisfy the criteria set forth in this section. The Federal Register notification of proposed specifications will provide for a 30-day public comment period.

(2) The Council's recommendations will be available for inspection at the office of the Regional Director during the public comment period.

(3) On or about December 15 of each year, the Secretary will make a final determination concerning the specifications for each species and the other measures contained in the notification of proposed specifications. After the Secretary considers all relevant data and any public comments, a notification of final specifications and response to public comments will be published in the Federal Register. If the final amounts differ from those recommended by the Council, the reason(s) for the difference(s) must be clearly stated and the revised specifications must be consistent with the guidelines set forth in paragraph (b) of this section.

§ 655.23 Closure of the fishery.

(a) *General.* The Secretary shall close the directed Atlantic mackerel, *Illex* squid, *Loligo* squid, or butterfish fishery in the EEZ when U.S. fishermen have harvested 80 percent of the DAH, if such closure is necessary to prevent the DAH from being exceeded. The closure will be in effect for the remainder of the fishing year, with incidental catches allowed as specified in paragraph (c) of this section, until the entire DAH is attained. When the Regional Director projects that DAH will be attained for any of the species, the Secretary shall close the fishery in the EEZ to all fishing for that species, and the incidental catches specified in paragraph (c) of this section will be prohibited.

(b) *Notification.* The Secretary will take the following actions if it is determined that a closure is necessary:

(1) Notify, in advance, the Executive Directors of the Mid-Atlantic, New England, and South Atlantic Councils;

(2) Mail notifications of the closure to all holders of permits issued under §§ 655.4, 655.5 and 655.6 at least 72 hours before the effective date of the closure;

(3) Provide for adequate notification of the closure to recreational participants in the fishery; and

(4) Publish a notification of closure in the Federal Register.

(c) *Incidental catches.* During a period of closure of a directed fishery, the trip limit for the species for which the fishery is closed is 10 percent by weight of the total amount of fish on board for vessels with *Loligo*/butterfish moratorium permits or *Illex* or mackerel commercial permits. During a period of closure of the directed fishery for *Loligo* or butterfish, the trip limit for vessels issued an incidental catch permit for those species is 10 percent by weight of the total amount of fish on board, or the allowed level of incidental catch specified in § 655.4(c)(1), whichever is less.

§ 655.24 Time and area restrictions for directed foreign fishing.

Foreign fishing is regulated under the provisions specified in § 611.50(b)(2).

§ 655.25 Gear restrictions.

(a) *Mesh restriction and exemption.* Owners or operators of otter trawl vessels possessing *Loligo* squid harvested in or from the EEZ may only fish with nets having a minimum mesh size of 1⅞ inches (48 mm) diamond mesh, inside stretch measure, applied throughout the entire net unless they are fishing during the months of June, July, August, and September for *Illex* seaward of the following coordinates (see Figure 1 to part 655):

Point	Latitude	Longitude
Point M1	43°58.0′ N.	67°22.0′ W.
Point M2	43°50.0′ N.	68°35.0′ W.
Point M3	43°30.0′ N.	69°40.0′ W.
Point M4	43°20.0′ N.	70°00.0′ W.
Point M5	42°45.0′ N.	70°10.0′ W.
Point M6	42°13.0′ N.	69°55.0′ W.
Point M7	41°00.0′ N.	69°00.0′ W.
Point M8	41°45.0′ N.	68°15.0′ W.
Point M9	42°10.0′ N.	67°10.0′ W.
Point M10	41°18.6′ N.	66°24.8′ W.
Point M11	40°55.5′ N.	66°38.0′ W.
Point M12	40°45.5′ N.	68°00.0′ W.
Point M13	40°37.0′ N.	68°00.0′ W.
Point M14	40°30.0′ N.	69°00.0′ W.
Point M15	40°22.7′ N.	69°00.0′ W.
Point M16	40°18.7′ N.	69°40.0′ W.
Point M17	40°21.0′ N.	71°03.0′ W.
Point M18	39°41.0′ N.	72°32.0′ W.
Point M19	38°47.0′ N.	73°11.0′ W.
Point M20	38°04.0′ N.	74°06.0′ W.
Point M21	37°08.0′ N.	74°46.0′ W.
Point M22	36°00.0′ N.	74°52.0′ W.
Point M23	35°45.0′ N.	74°53.0′ W.
Point M24	35°28.0′ N.	74°52.0′ W.

Vessels fishing under this exemption may not have ''available for immediate use,'' as described in paragraph (b) of this section, any net with mesh size less than 1⅞ inches (48 mm) diamond mesh when the vessel is landward of the specified coordinates.

(b) *Net stowage requirements.* Otter trawl vessels possessing *Loligo* squid that are subject to the minimum mesh size may not have ''available for immediate use'' any net, or any piece of net, not meeting the minimum mesh size requirement, or any net, or any piece of net, with mesh that is rigged in a manner that is inconsistent with the minimum mesh size. A net that conforms to one of the following specifications and that can be shown not to have been in recent use, is considered not to be ''available for immediate use'':

(1) A net stowed below deck, provided:

(i) It is located below the main working deck from which the net is deployed and retrieved;

(ii) The towing wires, including the leg wires, are detached from the net; and

(iii) It is fan-folded (flaked) and bound around its circumference; or

(2) A net stowed and lashed down on deck, provided:

(i) It is fan-folded (flaked) and bound around its circumference;

(ii) It is securely fastened to the deck or rail of the vessel; and

(iii) The towing wires, including the leg wires, are detached from the net; or

(3) A net that is on a reel and is covered and secured, provided:

(i) The entire surface of the net is covered with canvas or other similar material that is securely bound;

(ii) The towing wires, including the leg wires, are detached from the net; and

(iii) The codend is removed from the net and stored below deck; or

(4) Nets that are secured in a manner authorized in writing by the Regional Director and published in the Federal Register.

(c) *Mesh obstruction or constriction.* Any combination of mesh or liners that effectively decreases the mesh below the minimum size is prohibited, except that a liner may be used to close the opening created by the rings in the rearmost portion of the net, provided the liner extends no more than 10 meshes forward of the rearmost portion of the net.

(d) *Net obstruction or constriction.* The owner or operator of a fishing vessel shall not use any device, gear, or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of the regulated portion of a trawl net that results in an effective mesh opening of less than 1⅞ inches (48 mm) (inside stretch measure); Net strengtheners (covers), splitting straps and/or bull ropes or wire may be used, provided they do not constrict the top of the regulated portion of the net to less than an effective mesh opening of 1⅞ inches (48 mm) (inside stretch measure). The ''top of the regulated portion of the net'' means the 50 percent of the entire regulated portion of the net which (in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the regulated portion of the net were laid flat on the ocean floor. For the purpose of this paragraph, head ropes shall not be considered part of the top of the regulated portion of a trawl net. Net strengtheners (covers) may not have an effective mesh opening of less than 4.5-inch (11.43-cm) (inside stretch measure).

§ 655.26 Minimum fish sizes. [Reserved]

§ 655.27 Possession limits. [Reserved]

§ 655.28 At-sea observer coverage.

(a) The Regional Director may require observers for any vessel holding a permit issued under § 655.4.

(b) Owners of vessels selected for observer coverage must notify the appropriate Regional or Center Director, as specified by the Regional Director, before commencing any fishing trip that may result in the harvest of Atlantic mackerel, *Loligo* squid, *Illex* squid, or butterfish. Notification procedures will be specified in selection letters to vessel owners.

(c) An owner or operator of a vessel on which a NMFS-approved observer is embarked must:

(1) Provide accommodations and food that are equivalent to those provided to the crew;

(2) Allow the observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the observer's duties;

(3) Allow the observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position;

(4) Allow the observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish; and

(5) Allow the observer to inspect and copy any records associated with the catch and distribution of fish for that trip.

§ 655.29 Transfer-at-sea.

Only vessels issued a moratorium permit under § 655.4(b) may transfer *Loligo* or butterfish at sea. Unless authorized in writing by the Regional Director, vessels issued an incidental catch permit under § 655.4(c) are prohibited from transferring or attempting to transfer *Loligo* or butterfish from one vessel to another vessel.

§ 655.30 Experimental fishery.

(a) The Regional Director, in consultation with the Executive Director of the Council, may exempt any person or vessel from the requirements of this part for the conduct of experimental fishing beneficial to the management of the Atlantic mackerel, squid, or butterfish resource or fishery.

(b) The Regional Director may not grant such an exemption unless he/she determines that the purpose, design, and administration of the exemption is consistent with the objectives of the FMP, the provisions of the Magnuson Act, and other applicable law, and that granting the exemption will not:

(1) Have a detrimental effect on the Atlantic mackerel, squid, or butterfish resource and fishery;

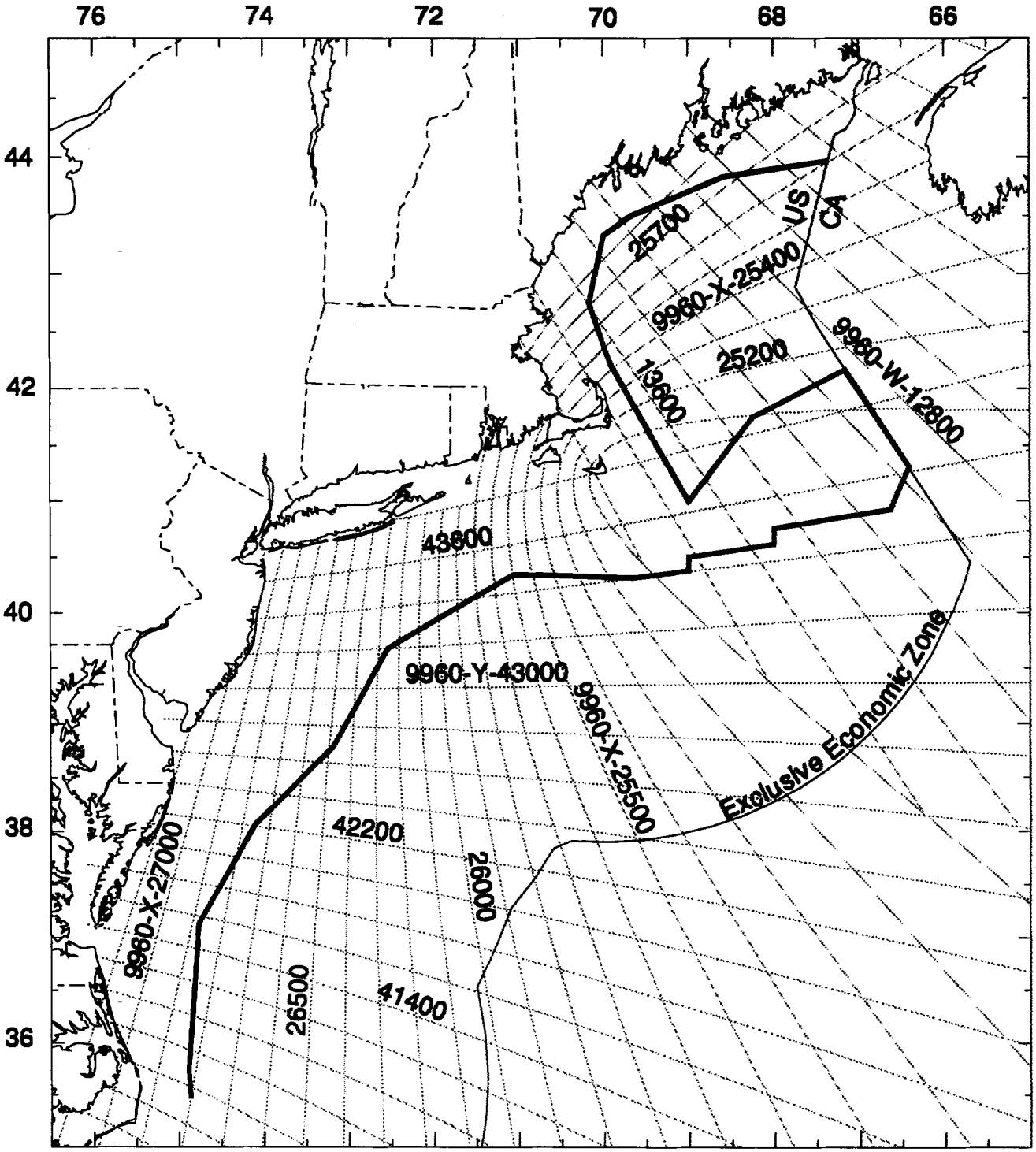
(2) Cause any quota to be exceeded; or

(3) Create significant enforcement problems.

(c) Each vessel participating in any exempted experimental fishing activity is subject to all provisions of this FMP except those necessarily relating to the purpose and nature of the exemption. The exemption will be specified in a letter issued by the Regional Director to each vessel participating in the exempted activity. This letter must be carried on board the vessel seeking the benefit of such exemption.

4. Figure 1 to part 655 is added to read as follows:

BILLING CODE 3510–22–P



Exemption Line to Minimum Net Mesh-size Requirement for Loligo Squid

BILLING CODE 3510–22–C

Figure 1 to Part 655—Exemption Line to Minimum Net Mesh-size Requirement for Loligo Squid

[FR Doc. 96–7625 Filed 4–1–96; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Chapter I

Foods and Drugs; Technical Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to correct mailing addresses for the Center for Food Safety and Applied Nutrition (CFSAN). This action is being taken to improve the accuracy of the regulations.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Corinne L. Howley, Center for Food Safety and Applied Nutrition (HFS–24), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4272.

SUPPLEMENTARY INFORMATION: FDA is amending its regulations in 21 CFR Chapter I of Title 21 of the Code of Federal Regulations to correct certain mailing addresses in CFSAN.

Publication of this document constitutes final action on these changes under the Administrative Procedure Act (5 U.S.C. 553). Notice and public procedure are unnecessary because FDA is merely correcting nonsubstantive errors.

List of Subjects

21 CFR Part 1

Cosmetics, Drugs, Exports, Food labeling, Imports, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 70

Color additives, Cosmetics, Drugs, Labeling, Packaging and containers.

21 CFR Part 71

Administrative practice and procedure, Color additives, Confidential business information, Cosmetics, Drugs, Reporting and recordkeeping requirements.

21 CFR Part 80

Color additives, Cosmetics, Drugs, and Reporting and recordkeeping requirements.

21 CFR Part 101

Food labeling, Nutrition, Reporting and recordkeeping requirements.

21 CFR Part 102

Beverages, Food grades and standards, Food labeling, Frozen foods, Oils and fats, Onions, Potatoes, Seafood.

21 CFR Part 103

Beverages, Bottled water, Food grades and standards.

21 CFR Part 106

Food grades and standards, Infants and children, Nutrition, Reporting and recordkeeping requirements.

21 CFR Part 107

Food labeling, Infants and children, Nutrition, Reporting and recordkeeping requirements, Signs and symbols.

21 CFR Part 108

Administrative practice and procedure, Foods, Reporting and recordkeeping requirements.

21 CFR Part 109

Food packaging, Foods, Polychlorinated biphenyls (PCB's).

21 CFR Part 110

Food packaging, Foods.

21 CFR Part 161

Food grades and standards, Frozen foods, Seafood.

21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

21 CFR Part 173

Food additives.

21 CFR Part 176

Food additives, Food packaging.

21 CFR Part 177

Food additives, Food packaging.

21 CFR Part 178

Food additives, Food packaging.

21 CFR Part 508

Animal foods.

21 CFR Part 730

Cosmetics, Reporting and recordkeeping requirements.

21 CFR Part 1250

Air carriers, Foods, Maritime carriers, Motor carriers, Public health, Railroads, Water supply.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR Chapter I is amended as follows:

PART 1—GENERAL ENFORCEMENT REGULATIONS

1. The authority citation for 21 CFR part 1 continues to read as follows:

Authority: Secs. 4, 5, 6 of the Fair Packaging and Labeling Act (15 U.S.C. 1453, 1454, 1455); secs. 201, 403, 502, 505, 512, 602, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 343, 352, 355, 360b, 362, 371); sec. 215 of the Public Health Service Act (42 U.S.C. 216).

§ 1.24 [Amended]

2. Section 1.24 *Exemptions from required label statements* is amended in paragraphs (a)(6)(i), (a)(6)(ii), and (a)(6)(iii) by removing the phrase ''Division of Regulatory Guidance,'' and by removing the mail code ''(HFF–310)'' and adding in its place ''(HFS–150)''.

PART 70—COLOR ADDITIVES

3. The authority citation for 21 CFR part 70 continues to read as follows:

Authority: Secs. 201, 401, 402, 403, 409, 501, 512, 601, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 343, 348, 351, 360b, 361, 371, 379e).

§ 70.3 [Amended]

4. Section 70.3 *Definitions* is amended in paragraph (e) by removing the phrase ''Bureau of Foods'' and adding in its place ''Center for Food Safety and Applied Nutrition''.

§ 70.19 [Amended]

5. Section 70.19 *Fees for listing* is amended in paragraph (p) by removing the phrase ''Division of Food and Color Additives, HFF–330,'' and by adding the mail code ''(HFS–200)'' before the comma and after the word ''Nutrition''.

PART 71—COLOR ADDITIVE PETITIONS

6. The authority citation for 21 CFR part 71 continues to read as follows:

Authority: Secs. 201, 402, 409, 501, 505, 506, 507, 510, 512–516, 518–520, 601, 701, 721, 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 351, 355, 356, 357, 360, 360b–360f, 360h–360j, 361, 371, 379e, 381); secs. 215, 351 of the Public Health Service Act (42 U.S.C. 216, 262).

§ 71.1 [Amended]

7. Section 71.1 *Petitions* is amended in paragraph (c) by removing the phrase ''Division of Food and Color Additives, HFF–330'' and adding in its place the phrase ''Office of Premarket Approval (HFS–200)''.

PART 80—COLOR ADDITIVE CERTIFICATION

8. The authority citation for 21 CFR part 80 continues to read as follows:

Authority: Secs. 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371, 379e).

§ 80.10 [Amended]

9. Section 80.10 *Fees for certification services* is amended in paragraph (d) by removing the phrase ''Division of Color Technology, HFF–430,'' and by inserting the mail code ''(HFS–100)'' before the comma and after the word ''Nutrition''.

§ 80.21 [Amended]

10. Section 80.21 *Request for certification* is amended in paragraphs (j)(1) and (j)(2), (j)(3), and (j)(4) by removing the phrase ''Division of Color Technology, HFF–430'' and adding in its place the phrase ''Office of Cosmetics and Colors (HFS–100)''.

PART 101—FOOD LABELING

11. The authority citation for 21 CFR part 101 continues to read as follows:

Authority: Secs. 4, 5, 6 of the Fair Packaging and Labeling Act (15 U.S.C. 1453, 1454, 1455); secs. 201, 301, 402, 403, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 342, 343, 348, 371).

§ 101.9 [Amended]

12. Section 101.9 *Nutrition labeling of food* is amended in paragraph (c)(7)(ii) by removing the phrase ''Office of Food Labeling (HFS–150),'' and by removing the mail code ''(HFF–260)'' and adding in its place ''(HFS–150)'', and in paragraph (g)(9) by removing the phrase ''Office of Food Labeling'' and adding in its place ''Center for Food Safety and Applied Nutrition''.

§ 101.45 [Amended]

13. Section 101.45 *Guidelines for the voluntary nutrition labeling of raw fruit, vegetables, and fish* is amended in paragraph (c) by removing the phrase ''Division of Nutrition (HFF–260),'' and by adding the mail code ''(HFS–150)'' in front of the comma and after the words ''Applied Nutrition'', and in paragraph (i) by removing the phrase ''Division of Nutrition,'' and by adding the mail code ''(HFS–150)'' before the comma and after the words ''Applied Nutrition''.

PART 102—COMMON OR USUAL NAME FOR NONSTANDARDIZED FOODS

14. The authority citation for 21 CFR part 102 continues to read as follows:

Authority: Secs. 201, 403, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 343, 371).

§ 102.23 [Amended]

15. Section 102.23 *Peanut spreads* is amended in paragraph (c)(5) by removing the phrase ''Division of Nutrition,'' and by removing the mail code ''(HFF–260)'' and adding in its place ''(HFS–150)''.

PART 103—QUALITY STANDARDS FOR FOODS WITH NO IDENTITY STANDARDS

16. The authority citation for 21 CFR part 103 continues to read as follows:

Authority: Secs. 201, 401, 403, 409, 410, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 343, 348, 349, 371, 379e).

§ 103.35 [Amended]

17. Section 103.35 *Bottled water* is amended in paragraph (b) by removing the phrase ''Division of Food Chemistry and Technology,'' and by removing the mail code ''(HFF–410)'' and adding in its place ''(HFS–300)'' and in paragraphs (d)(3)(v), (d)(3)(v)(A)(*3*), (d)(3)(v)(E)(*3*), (d)(3)(v)(G)(*3*), and (d)(3)(vi) by removing the phrase ''Office of Plant and Dairy Foods and Beverages (HFS–305),'' and by removing the word ''Nutrition'' and adding in its place ''Nutrition's Library''.

PART 106—INFANT FORMULA QUALITY CONTROL PROCEDURES

§ 106.120 [Amended]

18. The authority citation for 21 CFR part 106 continues to read as follows:

Authority: Secs. 201, 412, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 350a, 371).

19. Section 106.120 *New formulations and reformulations* is amended in paragraph (a) by removing the phrase ''Chief, Regulatory Affairs Staff (HFF–204),'' and by adding the mail code ''(HFS–450)'' before the comma and after the word ''Nutrition'' and in paragraph (b) by removing the phrase ''Division of Regulatory Guidance (HFF–310),'' and by adding the mail code ''(HFS–605)'' before the comma and after the word ''Nutrition''.

PART 107—INFANT FORMULA

20. The authority citation for 21 CFR part 107 continues to read as follows:

Authority: Secs. 201, 403, 412, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 343, 350a, 371).

§ 107.50 [Amended]

21. Section 107.50 *Terms and conditions* is amended in paragraph (e)(1) by removing the phrase ''Chief, Regulatory Affairs Staff (HFF–204),'' and by adding the mail code ''(HFS–450),'' before the comma and after the word ''Nutrition'' and in paragraph (e)(2) by removing the phrase ''Division of Regulatory Guidance (HFF–310),'' and by adding the mail code ''(HFS–605)'' before the comma and after the word ''Nutrition''.

§ 107.240 [Amended]

22. Section 107.240 *Notification requirements* is amended in paragraph (b) by removing the phrase ''Division of Regulatory Guidance (HFF–310),'' and by adding the mail code ''(HFS–605)'' before the comma and after the word ''Nutrition''.

§ 107.250 [Amended]

23. Section 107.250 *Termination of an infant formula recall* is amended in the introductory paragraph by removing the phrase ''Division of Regulatory Guidance,'' the two times that it appears and by adding the mail code ''(HFS–605)'' before the comma and after the word ''Nutrition'' the two times that it appears.

PART 108—EMERGENCY PERMIT CONTROL

24. The authority citation for 21 CFR part 108 continues to read as follows:

Authority: Secs. 402, 404, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 344, 371).

§ 108.5 [Amended]

25. Section 108.5 *Determination of the need for a permit* is amended in paragraph (a)(1) by removing the phrase ''Food and Drug Administration,'' and the mail code ''(HFF–310),'' and by adding the phrase ''Food and Drug Administration (HFS–605),'' after the word ''Nutrition''.

§ 108.25 [Amended]

26. Section 108.25 *Acidified foods* is amended in paragraphs (c)(1) and (c)(2) by removing the address ''Food and Drug Administration, Center for Food Safety and Applied Nutrition, LACF Registration Coordinator (HFF–233),'' and adding in its place ''LACF Registration Coordinator (HFS–618), Center for Food Safety and Applied Nutrition, Food and Drug Administration,'' and in paragraph (c)(1) by removing the phrase ''Food and Drug Administration, Bureau of Foods, Industry Guidance Branch (HFF–342)'' and adding in its place ''Center for Food

Safety and Applied Nutrition (HFS–565), Food and Drug Administration''.

§ 108.35 [Amended]

27. Section 108.35 *Thermal processing of low-acid foods packaged in hermetically sealed containers* is amended in paragraph (c)(1) and in the introductory text of paragraph (c)(2) by removing the address ''Food and Drug Administration, Center for Food Safety and Applied Nutrition, LACF Registration Coordinator HFF–233,'' and adding in its place ''LACF Registration Coordinator (HFS–618), Center for Food Safety and Applied Nutrition, Food and Drug Administration'' each time that it appears; and in paragraph (c)(2)(ii) by removing the address ''Food and Drug Administration, Center for Food Safety and Applied Nutrition, DFCT, HFF–414'' and adding in its place ''Center for Food Safety and Applied Nutrition (HFS–617), Food and Drug Administration'' and in paragraph (g) by removing the phrase ''and shall not apply until March 25, 1975 in any other State''.

PART 109—UNAVOIDABLE CONTAMINANTS IN FOOD FOR HUMAN CONSUMPTION AND FOOD-PACKAGING MATERIAL

28. The authority citation for 21 CFR part 109 continues to read as follows:

Authority: Secs. 201, 306, 402, 406, 408, 409, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 336, 342, 346, 346a, 348, 371).

§ 109.30 [Amended]

29. Section 109.30 *Tolerances for polychlorinated biphenyls (PCB's)* is amended in paragraph (b) by adding the mail code ''(HFA–305)'' before the comma and after the word ''Branch'', by removing the phrase ''Department of Health and Human Services'' and adding in its place ''Food and Drug Administration'', and by moving ''rm. 1–23,'' to appear after ''Dr.,'' and in paragraph (d) by removing the phrase ''Contaminants Program Unit (HFF–421, or its successor)'' and adding in its place the phrase ''Center for Food Safety and Applied Nutrition (HFS–308)''.

PART 110—CURRENT GOOD MANUFACTURING PRACTICE IN MANUFACTURING, PACKING, OR HOLDING HUMAN FOOD

30. The authority citation for 21 CFR part 110 continues to read as follows:

Authority: Secs. 402, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 371, 374); sec. 361 of the Public Health Service Act (42 U.S.C. 264).

§ 110.110 [Amended]

31. Section 110.110 *Natural or unavoidable defects in food for human use that present no health hazard* is amended in paragraph (e) by removing the phrase ''Industry Programs Branch (HFF–326)'' and by adding the mail code ''(HFS–565)'' before the comma and after the word ''Nutrition''.

PART 161—FISH AND SHELLFISH

32. The authority citation for 21 CFR part 161 continues to read as follows:

Authority: Secs. 201, 401, 403, 409, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 343, 348, 371, 379e).

§ 161.190 [Amended]

33. Section 161.190 *Canned tuna* is amended in paragraph (a)(7)(iii) by removing the phrase ''Division of Food Chemistry and Technology,'' and by removing the mail code ''(HFF–410)'' and adding in its place ''(HFS–150)''.

PART 165—BEVERAGES

34. The authority citation for 21 CFR part 165 continues to read as follows:

Authority: Secs. 201, 401, 403, 403A, 409, 410, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 343, 343A, 348, 349, 371, 379e).

§ 165.110 [Amended]

35. Section 165.110 *Bottled water* is amended in paragraphs (a)(2) (iv), (a)(2)(vii), (b)(2), (b)(4)(i)(C), (b)(4)(iii)(E), (b)(4)(iii)(E)(*2*)(*iii*), (b)(4)(iii)(E)(*6*)(*iii*), (b)(4)(iii)(E)(*11*)(*iii*), and (b)(4)(iii)(F) by removing the word ''Nutrition'' and adding in its place ''Nutrition's Library,'' and in paragraphs (b)(4)(iii)(E), (b)(4)(iii)(E)(*2*)(*iii*), (b)(4)(iii)(E)(*6*)(*iii*)), (b)(4)(iii)(E)(*11*)(*iii*), and (b)(4)(iii)(F) by removing the phrase ''Office of Plant and Dairy Foods and Beverages (HFS–305).''

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

36. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: Secs. 201, 401, 402, 409, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 342, 348, 371, 379e).

§ 172.320 [Amended]

37. Section 172.320 *Amino acids* is amended in paragraphs (b)(2) and (c)(1) by removing the phrase ''Division of Food and Color Additives,'' and by removing the mail code ''(HFF–330)'' and adding in its place ''(HFS–200)''.

§ 172.804 [Amended]

38. Section 172.804 *Aspartame* is amended in paragraph (c)(23) by removing the phrase ''Office of Premarket Approval,'' and by adding the mail code ''(HFS–200)'' before the comma and after the word ''Nutrition''.

§ 172.841 [Amended]

39. Section 172.841 *Polydextrose* is amended in paragraph (b) by removing the phrase ''Division of Product Policy (HFS–205),'' and by removing the word ''Nutrition'' and adding in its place the words ''Nutrition's Library''.

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

40. The authority citation for 21 CFR part 173 continues to read as follows:

Authority: Secs. 201, 402, 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348).

§ 173.69 [Amended]

41. Section 173.69 *Chlorine dioxide* is amended in paragraph (a) by removing the phrase ''Division of Petition Control,'' and by removing the mail code ''(HFS–215)'' and adding in its place ''(HFS–200)''.

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

42. The authority citation for 21 CFR part 176 continues to read as follows:

Authority: Secs. 201, 402, 406, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 346, 348, 379e).

§ 176.170 [Amended]

43. Section 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* is amended in the table in paragraph (b)(2) in the entry for ''Cyclized rubber'' by removing the phrase ''Division of Food and Color Additives, Bureau of Foods (HFF–330)'' and adding in its place ''Center for Food Safety and Applied Nutrition (HFS–200)''.

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

44. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

§ 177.1210 [Amended]

45. Section 177.1210 *Closures with sealing gaskets for food containers* is amended in the table in paragraph (b)(5) in the entry for ''Brominated

isobutylene-isoprene copolymers'' by removing the phrase ''Division of Food and Color Additives,'' and by removing the mail code ''(HFF–335)'' and adding in its place ''(HFS–200)''.

§ 177.1345 [Amended]

46. Section 177.1345 *Ethylene/1,3-phenylene oxyethylene isophthalate/terephthalate copolymer* is amended in paragraph (b)(1) by removing the phrase ''Division of Food and Color Additives, Center for Food Safety and Applied Nutrition (HFF–330)'' and adding in its place ''Center for Food Safety and Applied Nutrition's Library''.

§ 177.1390 [Amended]

47. Section 177.1390 *Laminate structures for use at temperatures of 250* °F and above is amended in paragraph (c)(3)(i)(*a*)(*1*) by removing the phrase ''Division of Food and Color Additives,'' and by removing the mail code ''(HFF–334)'' and adding in its place ''(HFS–200)''.

§ 177.1480 [Amended]

48. Section 177.1480 *Nitrile rubber modified acrylonitrile-methyl acrylate copolymers* is amended in paragraph (b)(2) by removing the phrase ''Division of Food and Color Additives,'' and by removing the mail code ''(HFF–334)'' and adding in its place ''(HFS–200)''.

§ 177.1500 [Amended]

49. Section 177.1500 *Nylon resins* is amended in paragraph (c)(5)(i) by removing the phrase ''Division of Food and Color Additives,'' and by removing the mail code ''(HFF–335)'' and adding in its place ''(HFS–200)''.

§ 177.1520 [Amended]

50. Section 177.1520 *Olefin polymers* is amended in the table in paragraph (b) by removing the phrase ''Division of Petition Control,'' each time it appears and by removing the mail code ''(HFS–216)'' each time it appears and adding in its place ''(HFS–200)''.

§ 177.1550 [Amended]

51. Section 177.1550 *Perfluorocarbon resins* is amended in paragraph (d)(2)(ii) by removing the phrase ''Division of Food and Color Additives (HFF–330)'' and adding in its place ''Center for Food Safety and Applied Nutrition (HFS–200).''

§ 177.2450 [Amended]

52. Section 177.2450 *Polyamide-imide resins* is amended in paragraphs (b)(2) and (b)(3) by removing the phrase ''Division of Food and Color Additives (HFF–330)'' and by adding in its place ''Center for Food Safety and Applied Nutrition (HFS–200)''.

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

53. The authority citation for 21 CFR part 178 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

§ 178.3297 [Amended]

54. Section 178.3297 *Colorants for polymers* is amended in paragraph (c) by removing the phrase '', Division of Petition Control (HFS–215),'' and adding in its place ''(HFS–200)''.

§ 178.3780 [Amended]

55. Section 178.3780 *Polyhydric alcohol esters of long chain monobasic acids* is amended in paragraph (b)(1) by removing the phrase ''Division of Food and Color Additives,'' and by removing the mail code ''(HFF–334)'' and adding in its place ''(HFS–200)''.

PART 508—EMERGENCY PERMIT CONTROL

56. The authority citation for 21 CFR part 508 continues to read as follows:

Authority: Secs. 402, 404, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 344, 371).

§ 508.35 [Amended]

57. Section 508.35 *Thermal processing of low-acid animal foods packaged in hermetically sealed containers* is amended in paragraph (c)(1) by moving the phrase ''Food and Drug Administration,'' the first time it appears in the second sentence to appear before ''200 C St.'', by removing the phrase '', Industry Programs Branch, HFF–326'' and adding in its place ''(HFS–565)'', by removing the phrase ''Food and Drug Administration,'' the first time it appears in the third sentence, by removing the phrase '', Division of Food Chemistry and Technology, HFF–410'' and adding in its place ''(HFS–617), Food and Drug Administration''; in the introductory text of paragraph (c)(2) by removing ''Food and Drug Administration,'' the first time it appears in the third sentence and in the fourth sentence by removing '', Industry Programs Branch, HFF–326'' and adding in its place ''(HFS–565), Food and Drug Administration'', by removing '', Division of Food Chemistry and Technology, HFF–410'' and adding in its place ''(HFS–617), Food and Drug Administration'', in paragraph (c)(2)(ii) by removing ''Food and Drug Administration,'' in the third sentence by adding the mail code ''(HFS–617)'' in front of the comma after the word ''Nutrition'', and by removing the mail code ''HFF–410,''.

PART 730—VOLUNTARY FILING OF COSMETIC PRODUCT EXPERIENCES

58. The authority citation for 21 CFR part 730 continues to read as follows:

Authority: Secs. 201, 301, 601, 602, 701, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 361, 362, 371, 374).

§ 730.3 [Amended]

59. Section 730.3 *How and where to file* is amended by removing the phrase ''Division of Cosmetics Technology (HFF–444),'' and by adding the mail code ''(HFS–100)'' in front of the comma and after the word ''Nutrition''.

PART 1250—INTERSTATE CONVEYANCE SANITATION

60. The authority citation for 21 CFR part 1250 continues to read as follows:

Authority: Secs. 215, 311, 361, 368 of the Public Health Service Act (42 U.S.C. 216, 243, 264, 271).

§ 1250.51 [Amended]

61. Section 1250.51 *Railroad conveyances; discharge of wastes* is amended in paragraph (d) by removing the phrase ''Food and Drug Administration,'' and by removing the phrase ''Nutrition, Manager, Interstate Travel Sanitation Sub-Program, HFF–312'' and adding in its place ''Nutrition (HFS–627), Food and Drug Administration''.

Dated: March 26, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–7884 Filed 4–1–96; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Parts 172, 173, 175, 176, 177, 178, 180, 181, and 189

Change of Names and Addresses; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to reflect a change in the name and address for the Association of Official Analytical Chemists International. In addition the agency is also amending the regulations to reflect an organizational change within its Center for Food Safety and Applied Nutrition (CFSAN). This action is

editorial in nature, and is intended to provide accuracy and clarity to the agency's regulations.

DATES: Effective April 1, 1996.

FOR FURTHER INFORMATION CONTACT: LaJuana D. Caldwell, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: FDA is amending its regulations in parts 172, 173, 175, 176, 177, 178, 180, 181, and 189 to reflect a change in the name and address for the Association of Official Analytical Chemists International. The current name and address listed in FDA's regulations is Association of Official Analytical Chemists, 2300 Wilson Blvd., Suite 400, Arlington, VA 22201–3301. The new name and address is Association of Official Analytical Chemists International, 481 North Frederick Ave., suite 500, Gaithersburg, MD 20877–2504.

To reflect an organizational change within CFSAN, FDA is amending the regulations to remove references to the Division of Food and Color Additives.

Publication of this document constitutes final action on these changes under the Administrative Procedure Act (5 U.S.C. 553). FDA has determined that notice and public comment are unnecessary because these amendments are editorial and nonsubstantive in nature.

List of Subjects

21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

21 CFR Parts 173 and 180

Food additives.

21 CFR Part 175

Adhesives, Food additives, Food packaging.

21 CFR Parts 176, 177, and 178

Food additives, Food packaging.

21 CFR Parts 181 and 189

Food ingredients, Food packaging.

Therefore under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301, *et seq*) and under authority delegated to the Commissioner of Food and Drugs, 21 CFR parts 172, 173, 175, 176, 177, 178, 180, 181, and 189 are amended as follows:

1. In parts 172, 173, 176, 177, 178, and 189 remove the words ''Association of Official Analytical Chemists, 2200 Wilson Blvd., suite 400, Arlington, VA 22201–3301'' and add in its place the words ''Association of Official Analytical Chemists International, 481 North Frederick Ave., suite 500, Gaithersburg, MD 20877–2504'' wherever it appears.

2. In parts 172, 173, 175, 176, 177, 178, 180, and 181 remove the phrase ''Division of Food and Color Additives,'' and remove the mail code ''(HFF–330)'' and add in its place ''(HFS–200)'' wherever it appears.

Dated: March 26, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96–7919 Filed 4–1–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Trenbolone Acetate and Estradiol Benzoate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Syntex Animal Health. The NADA provides for use of an ear implant containing trenbolone acetate and estradiol benzoate in steers fed in confinement for slaughter for improved feed efficiency.

EFFECTIVE DATE: April 2, 1996.

FOR FURTHER INFORMATION CONTACT: Jack Caldwell, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0217.

SUPPLEMENTARY INFORMATION: Syntex Animal Health, Division of Syntex Agribusiness, Inc., 3401 Hillview Ave., Palo Alto, CA 94304, filed NADA 141–043, which provides for use of an ear implant consisting of 8 pellets, each pellet containing 25 milligrams (mg) of trenbolone acetate and 3.5 mg of estradiol benzoate. The implant is used in steers fed in confinement for slaughter for improved feed efficiency. The NADA is approved as of February 22, 1996, and the regulations are amended by adding new 21 CFR 522.2478 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for a 3-year period of marketing exclusivity beginning on February 22, 1996, because new clinical or field investigations (other than bioequivalence or residue studies), or human food safety studies (other than bioequivalence or residue studies) essential to the approval were conducted or sponsored by the applicant.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. New § 522.2478 is added to read as follows:

§ 522.2478 Trenbolone acetate and estradiol benzoate.

(a) *Sponsor.* See 000033 in § 510.600(c) of this chapter.

(b) *Related tolerance.* See §§ 556.240 and 556.739 of this chapter.

(c) *Conditions of use*—(1) *Steers*—(i) *Amount.* 200 milligrams of trenbolone acetate and 28 milligrams of estradiol benzoate (one implant consisting of 8 pellets, each pellet containing 25 milligrams of trenbolone acetate and 3.5 milligrams of estradiol benzoate) per animal.

(ii) *Indications for use.* For improved feed efficiency in steers fed in confinement for slaughter.

(iii) *Limitations.* Implant subcutaneously in ear only.

(2) [Reserved]

Dated: March 14, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96–7901 Filed 4–1–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Nicarbazin, Roxarsone, and Lincomycin; Nicarbazin and Lincomycin; Nicarbazin and Roxarsone

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of three abbreviated new animal drug applications (ANADA's) filed by Planalquimica Industrial Ltda. The ANADA's provide for use of single ingredient nicarbazin, roxarsone, and lincomycin Type A medicated articles to make combination drug Type C medicated broiler feeds containing nicarbazin, roxarsone, and lincomycin; nicarbazin and lincomycin; or nicarbazin and roxarsone.

EFFECTIVE DATE: April 2, 1996.

FOR FURTHER INFORMATION CONTACT: James F. McCormack, Center For Veterinary Medicine (HFV–128), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1607.

SUPPLEMENTARY INFORMATION: Planalquimica Industrial Ltda., Rua das Magnolias nr. 2405, Jardim das Bandeiras, CEP 13053–120, Campinas, Sao Paulo, Brazil, filed the following ANADA's:

ANADA 200–170: Nicarbazin with roxarsone and lincomycin, for Type C medicated feeds, as an aid in preventing outbreaks of cecal (*Eimeria tenella*) and intestinal (*E. acervulina, E. maxima, E. necatrix,* and *E. brunetti*) coccidiosis; for increased rate of weight gain, in broiler chickens;

ANADA 200–171: Nicarbazin and lincomycin, for Type C medicated feeds, as an aid in preventing outbreaks of cecal (*E. tenella*) and intestinal (*E. acervulina, E. maxima, E. necatrix,* and *E. brunetti*) coccidiosis; for increased rate of weight gain, in broiler chickens;

ANADA 200–172: Nicarbazin and roxarsone, for Type C medicated feeds, as an aid in preventing outbreaks of cecal (*E. tenella*) and intestinal (*E. acervulina, E. maxima, E. necatrix,* and *E. brunetti*) coccidiosis; for increased rate of weight gain, in broiler chickens.

The ANADA's provide for use of previously approved single ingredient Type A medicated articles to make combination drug Type C medicated feeds. Planalquimica's ANADA 200–170 is approved as a generic copy of Merck Research Laboratories' NADA 107–997, ANADA 200–171 as a generic copy of Merck's NADA 108–116, and ANADA 200–172 as a generic copy of Merck's 108–115. The ANADA's are approved as of April 2, 1996, and the regulations are amended in 21 CFR 558.366(c) to reflect the approvals. The basis for approval is discussed in the freedom of information summary.

These approvals are for use of Type A medicated articles to make Type C medicated feeds. Nicarbazin and roxarsone are Catagory II drugs which, as provided in 21 CFR 558.4, require an approved Form FDA 1900 for making a Type C medicated feed. Therefore, use of nicarbazin to make combination drug Type C medicated feeds as provided in ANADA 200–170, 200–171, and 200–172 require an approved Form FDA 1900.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of these applications may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.366 [Amended]

2. Section 558.366 *Nicarbazin* is amended in the table in paragraph (c) under the ''Sponsor'' column for the entries ''Lincomycin 2 (0.00044 pct),'' ''Roxarsone 22.7 (0.0025),'' and ''Roxarsone 22.7 (0.0025) plus lincomycin 2 (0.0004)'' by removing ''000006'' and adding in its place ''000006, 060728''.

Dated: March 19, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96–7977 Filed 4–1–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF EDUCATION

34 CFR Part 76 and 81

RIN 1880–AA64

State-Administered Programs; General Education Provisions Act—Enforcement

AGENCY: Department of Education.

ACTION: Final Regulations; Correction.

SUMMARY: On September 6, 1995, the Secretary of Education published in the Federal Register (60 FR 46492) final regulations which made technical amendments to the Education Department General Administrative Regulations (EDGAR) to implement amendments to the General Education Provisions Act (GEPA) made by the Improving America's Schools Act (IASA). This document corrects authority cites under Part 76, State-Administered Programs and Part 81, General Education Provisions Act—Enforcement.

EFFECTIVE DATE: This correction is effective October 6, 1995.

FOR FURTHER INFORMATION CONTACT: Ronelle Holloman, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3636, ROB–3, Washington, D.C. 20202–4248. Telephone: (202) 205–3501. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The final regulations published on September 6 stated authority citations for §§ 76.703 and 76.704 incorrectly, included an authority citation for § 76.705, which was previously redesignated, and failed to include authority citations for §§ 76.708, 76.709 and 76.710. Sections of Part 81 were also previously redesignated on August 16, 1993 (58 FR

43472). The final regulations published on September 6, 1995 did not reflect these redesignations. The final regulations are corrected as follows:

§§ 76.708, 76.703, 76.704 [Corrected]

1. On page 46494, column 1, amendment 19, § 76.708 is added to the list of sections for which the authority citation is revised and §§ 76.703 and 76.704 are removed from the list.

2. An amendment is added revising the authority citations for §§ 76.703 and 76.704 to read ''(Authority: 20 U.S.C. 1221e–3, 3474, 6511(a) and 31 U.S.C. 6503)''.

§§ 76.705, 76.709, 76.710 [Corrected]

3. On page 46494, column 1, amendment 27, the reference to § 76.705 is removed and §§ 76.709 and 76.710 are added in its place.

4. On page 46494, column 2, amendment 30 is corrected by removing ''81.24'' and adding, in its place, ''81.34''.

5. On page 46494, column 3, and 46495, column 1, amendments 43 through 56, are corrected by renumbering the sections for which the authority citations are revised from sections 81.21 through 81.34 to sections 81.31 through 81.44, respectively.

Dated: March 25, 1996.

Donald R. Wurtz,

Chief Financial Officer, Office of The Chief Financial Officer.

[FR Doc. 96–7943 Filed 4–1–96; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL120–1–6819a; FRL–5424–4]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: On May 23, 1995, and June 7, 1995, the Illinois Environmental Protection Agency (IEPA) submitted an adopted rule and supporting information for the control of batch processes as a requested State Implementation Plan (SIP) revision. This rule is part of the State's control measures for volatile organic compound (VOC) emissions, for the Chicago and East St. Louis ozone nonattainment areas, and is intended to satisfy part of the requirements of section 182(b)(2) of the Clean Air Act (Act), as amended in 1990. VOCs are air pollutants which combine on hot summer days to form ground-level ozone, commonly known as smog. Ozone pollution is of particular concern because of its harmful effects upon lung tissue and breathing passages. This regulation requires a reasonably available control technology (RACT) level of control for batch processes, as required by the amended Act. In this document, USEPA is approving Illinois' rule. The rationale for the approval is set forth in this final rule; additional information is available at the address indicated below. Elsewhere in this Federal Register USEPA is proposing approval and soliciting public comment on this requested revision to the SIP. If adverse comments are received on this direct final rule, USEPA will withdraw the final rule and address the comments received in a new final rule. Unless this final rule is withdrawn, no further rulemaking will occur on this requested SIP revision.

DATES: This final rule is effective June 3, 1996, unless adverse comments are received by May 2, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments can be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Air and Radiation Division, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

Copies of the SIP revision request are available for inspection at the following address: (It is recommended that you telephone Steven Rosenthal at (312) 886–6052, before visiting the Region 5 office.)

U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Air Programs Branch (AR–18J) (312) 886–6052.

SUPPLEMENTARY INFORMATION:

Background

Under the Act, as amended in 1977, ozone nonattainment areas were required to adopt RACT for sources of VOC emissions. USEPA issued three sets of control technique guidelines (CTGs) documents, establishing a ''presumptive norm'' for RACT for various categories of VOC sources. The three sets of CTGs were (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued in the early 1980's (5 CTGs). Those sources not covered by a CTG were called non-CTG sources. USEPA determined that an area's SIP-approved attainment date established which RACT rules the area needed to adopt and implement. In those areas where the State sought an extension of the attainment date under section 172(a)(2) to as late as December 31, 1987, RACT was required for all CTG sources and for all major (100 tons per year or more of VOC emissions under the pre-amended Act) non-CTG sources. Illinois sought and received such an extension for the Chicago area.

Section 182(b)(2) of the Act as amended in 1990 requires States to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. There are three parts to the section 182(b)(2) RACT requirement: (1) RACT for sources covered by an existing CTG—i.e., a CTG issued prior to the enactment of the amended Act of 1990; (2) RACT for sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG. These section 182(b)(2) RACT requirements are referred to as the RACT ''catch-up'' requirements.

Section 183 of the amended Act requires USEPA to issue CTGs for 13 source categories by November 15, 1993. A CTG was published by this date for two source categories—Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactors and Distillation; however, the CTGs for the remaining source categories have not been completed. The amended Act requires States to submit rules for sources covered by a post-enactment CTG in accordance with a schedule specified in a CTG document. Accordingly, States must submit a RACT rule for SOCMI reactor processes and distillation operations before March 23, 1994.

The USEPA created a CTG document as Appendix E to the *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990.* (57 FR 18070, 18077, April 28, 1992). In Appendix E, USEPA interpreted the Act to allow a State to submit a non-CTG rule by November 15, 1992, or to defer submittal of a RACT rule for sources that the State anticipated would be covered by a post-enactment CTG, based on the list of CTGs USEPA expected to issue to meet the requirement in section 183. Appendix E states that if USEPA fails to issue a CTG by November 15, 1993 (which it did for 11 source categories), the responsibility shifts to the State to submit a non-CTG RACT rule for those sources by November 15, 1994. In accordance with section 182(b)(2), implementation of that RACT rule should occur by May 31, 1995.

On May 23, 1995, and June 7, 1995, IEPA submitted adopted VOC rules and supporting information for the control of batch processes in the Chicago ozone severe nonattainment area and the Metro-East (East St. Louis) ozone moderate nonattainment area. These rules were intended to satisfy, in part, the major non-CTG control requirements of section 182(b)(2).

Evaluation of Rules

Subpart B: Definitions

Illinois has added the following four definitions to Subpart B: ''Batch Operation,'' ''Batch Process Train,'' ''Process Vent,'' and ''Single Unit Operation.'' These definitions accurately describe the specified terms and are necessary for implementation of the batch process rules. These definitions are, therefore, approvable.

Subpart V: Batch Operations and Air Oxidation Processes

Subpart V of Part 218 (for the Chicago area) and Part 219 (for the East St. Louis area) have been amended with rules covering batch processes. USEPA guidance on batch processes is contained in ''Control of Volatile Organic Compound Emissions from Batch Processes—Alternative Control Techniques Information Document'' (ACT).

Section 218/219.500 Applicability for Batch Operations—This rule applies to process vents associated with batch operations at sources identified by specified standard industrial classification (SIC) codes and to all batch operations at Stepan Company's Millsdale manufacturing facility in Elwood, Illinois. This rule does not apply to any emission unit included within the category specified in Subpart B: Organic Emissions from Storage and Loading Operations and Subpart T: Pharmaceutical Operations. A July 28, 1995, letter from Bharat Mathur, Chief, Bureau of Air for IEPA, to Stephen Rothblatt, Chief Regulation Development Branch for Region 5 USEPA clarifies that ''* * * for purposes of the rule for Batch Operations, otherwise applicable unit operations within a batch process remain subject to Subpart V (and not B), even if the unit operation performs what could be considered storage as some part of its operation. More specifically, those unit operations which form the batch process train are covered by Subpart V.'' The rule also does not apply to Air Oxidation processes, which are regulated by sections 218/520–526, and emission units included within an Early Reduction Program (as specified in 40 CFR Part 63) with a timely enforceable commitment approved by USEPA. Any single unit operation within a batch operation and any batch process train containing process vents with de minimis emissions are exempt from the control requirements of this Subpart.

The applicability equations in subsection (e) of Sections 218/219.500, which require the calculation of uncontrolled total annual mass emissions and flow rate value, are used to determine whether a single unit operation or a batch process train is subject to the control requirements in Sections 218/219.501. These applicability equations, which are consistent with the equations in the ACT, establish which vent streams are feasible to control.

Section 218/219.501 Control Requirements for Batch Operations—Any individual unit operation within a batch process train determined to be subject to these control requirements must reduce uncontrolled VOC emissions by an overall efficiency of at least 90 percent or emit less than 20 parts per million by volume (ppmv). Similarly, any batch process train determined to be subject to these control requirements must reduce uncontrolled VOC emissions by an overall efficiency of at least 90 percent or emit less than 20 parts per million by volume (ppmv). The ppmv limit is also clarified in IEPA's July 28, 1995, letter. If a source has installed a control device prior to March 15, 1995, that source can meet an 81 percent control efficiency—as opposed to 90 percent—until no later than December 31, 1999, at which time the 90 percent/20 ppmv requirement is put into effect. These control requirements are generally consistent with the guidance in USEPA's ACT document.

Section 218/219.502 Determination of Uncontrolled Total Annual mass Emissions and Average Flow Rate Values for Batch Operations—This section establishes the way in which total annual mass emissions and average flowrate are to be determined. These parameters are used to establish applicability of the control requirements to single unit batch operation and a batch process train.

Section 218/219.503 Performance and Testing Requirements for Batch Operations—Batch Operations must be run at representative operating conditions and flow rates during any performance test and the methods in 40 CFR 60 Appendix A must be used to determine compliance with the percent reduction efficiency and ppmv requirement in Section 501. Subsection 503(h) allows ''an alternative test method or procedures to demonstrate compliance with the control requirements set forth in Section 501 of this Subpart. Such method or procedures shall be approved by the Agency and USEPA as evidenced by federally enforceable permit conditions.'' The procedures for USEPA's review and approval of these alternative test methods and procedures are specified in a September 13, 1995, letter from IEPA to Region 5 of the USEPA.

Section 218.504 Monitoring requirements for Batch Operations—This section specifies monitoring devices and parameters to be measured—depending upon the control device used. Subsection 504(g) allows a source to monitor by an alternative method and to monitor parameters other than those listed in subsections (a) through (f) in this section. ''Such alternative method or parameters shall be contained in the source's operating permit as federally enforceable permit conditions.'' The procedures for USEPA's review and approval of these alternative monitoring methods and parameters are specified in a September 13, 1995, letter from IEPA to Region 5 of the USEPA.

Section 218/219.505—Reporting and Recordkeeping for Batch Operations—Sources that are exempt because their emissions are lower than the cut-off must keep records of, and document, their total annual mass emissions and average flowrate. Sources subject to the control requirements in Section 501 must keep the records specified in Subsection 505(c) (which are dependent upon the type of control device in use). Subsection 505(e) allows a source to maintain alternative records other than those listed in subsection 505(c) and states ''Any alternative recordkeeping shall be approved by the Agency and USEPA and shall be contained in the source's operating permit as federally enforceable permit conditions.'' The procedures for USEPA's review and approval of these alternative monitoring methods and parameters are specified in a September 13, 1995, letter from IEPA to Region 5 of USEPA.

Section 218/219.506 Compliance Date—Compliance with this rule is required by March 15, 1996.

Final Rulemaking Action

Illinois' rules for batch operations are generally consistent with USEPA's guidance in the ACT for this category and are therefore considered to constitute RACT. USEPA therefore approves these rules in Part 218 (for the Chicago ozone nonattainment area), in

Part 219 (for the East St. Louis ozone nonattainment area) and the related definitions in Part 211 that were submitted on May 23, 1995, and June 7, 1995.

Because USEPA considers this action noncontroversial and routine, we are approving it without prior proposal. The action will become effective on June 3, 1996. However, if we receive adverse comments by May 2, 1996, then USEPA will publish a document that withdraws this final action. If no request for a public hearing has been received, USEPA will address the public comments received in a new final rule on the requested SIP revision based on the proposed rule located in the proposed rules section of this Federal Register. If a public hearing is requested, USEPA will publish a document announcing a public hearing and reopening the public comment period until 30 days after the public hearing. At the conclusion of this additional public comment period, USEPA will publish a final rule responding to the public comments received and announcing final action.

This action has been classified as a Table 3 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by an October 4, 1993, memorandum from Michael H. Shapiro, former Acting Assistant Administrator for the Office of Air and Radiation. A July 10, 1995, memorandum from Mary D. Nichols, Assistant Administrator for the Office of Air and Radiation explains that the authority to approve/disapprove SIPs has been delegated to the Regional Administrators for Table 3 actions. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less then $100 million in any one year, the USEPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the USEPA is not required to develop a plan with regard to small governments. This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Final Rule: Direct Final Approval of Illinois' Batch Operations Rules. Page 11 of 13.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 3, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: January 17, 1996.

Valdas V. Adamkus,

Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S. C. 7401 7671q.

Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(121) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(121) On May 23, 1995, and June 7, 1995, the State submitted volatile organic compound control regulations for incorporation in the Illinois State Implementation Plan for ozone.

(i) Incorporation by reference.

(A) Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 211: Definitions and General Provisions, Subpart B: Definitions, Sections 211.695, 211.696, 211.5245, 211.6025. These sections were adopted on May 4, 1995, Amended at 19 Ill. Reg. 7344, and effective May 22, 1995.

(B) Title 35: Environmental Protection, Subtitle B: Air Pollution,

Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, Subpart V: 218.500, 218.501, 218.502, 218.503, 218.504, 218.505, 218.506. These sections were adopted on May 4, 1995, Amended at 19 Ill. Reg. 7359, and effective May 22, 1995.

(C) Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emission Standards and Limitations for Stationary Sources, Part 219: Organic Material Emission Standards and Limitations for the Metro East Area, Subpart V: 219.500, 219.501, 219.502, 219.503, 219.504, 219.505, 219.506. These sections were adopted on May 4, 1995, Amended at 19 Ill. Reg. 7385, and effective May 22, 1995.

* * * * *

[FR Doc. 96–7904 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IN55–1–7076a; FRL–5435–8]

Approval And Promulgation of Implementation Plan For Indiana

AGENCY: United States Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: On October 25, 1994, the Indiana Department of Environmental Management (IDEM) submitted a proposed amendment to the State implementation plan (SIP) containing Source Specific Operating Agreement (SSOA) regulations (326 IAC 2–9). This regulation has been developed to establish federally enforceable conditions for industrial or commercial surface coating operations, graphic arts operations, or grain elevators by limiting potential emissions below the title V major source threshold levels. In this action, USEPA approves 326 IAC 2–9–1 and 326 IAC 2–9–2(a), (b), and (e) of Indiana's SSOA regulation for establishing federally enforceable conditions for these source categories. In the proposed rules section of this Federal Register, USEPA is proposing approval of and soliciting public comment on these requested SIP revisions. If adverse comments are received on this direct final rule, USEPA will withdraw this final rule and address the comments received in a final rule on the related proposed rule which is being published in the proposed rules section of this Federal Register. Unless this final rule is withdrawn, no further rulemaking will occur on this requested SIP revision.

DATES: This action will be effective June 3, 1996, unless adverse or critical comments are received by May 2, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments can be mailed to J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch, United States Environmental Protection Agency, 77 West Jackson Boulevard (AR–18J), Chicago, Illinois 60604.

Copies of the State's submittal and USEPA's technical support document are available for inspection during normal business hours at the following location: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard (AR–18J), Chicago, Illinois 60604.

A copy of this SIP revision is also available at the following location: Office of Air and Radiation, Docket and Information Center (Air Docket 6102), room M1500, USEPA, 401 M Street SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, USEPA (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3189.

SUPPLEMENTARY INFORMATION:

I. Background

The Indiana SSOA program will be a major mechanism in limiting potential to emit for sources enabling them to remain below the applicability threshold for the operating permits program of title V of the Clean Air Act (CAA). The federal title V regulation is codified in 40 CFR part 70 and the State of Indiana's title V program is codified in 326 IAC 2–7. The title V program could encompass a large number of sources and could be a resource burden on the State and smaller title V sources. State mechanisms to establish federally enforceable limits on sources' potential to emit below the title V threshold will enable a State to reduce resource burdens.

II. This Action

IDEM has adopted a SSOA program regulation in 326 IAC 2–9 to provide certain source categories the opportunity to be subject to generic enforceable limits on potential to emit. 326 IAC 2–9–1 applies to all sources subject to the SSOA program, unless otherwise specified in 326 IAC 2–9–2. The subsections of 326 IAC 2–9–2 apply to the specific source categories. In this action, USEPA takes action on subsections 326 IAC 2–9–2(a), (b), and (e). Sources will be able to apply for an operating agreement under this program to limit their potential to emit to below the title V threshold level(s). This will provide a less resource-intensive alternative to the title V or Federally Enforceable State Operating Permit (FESOP) programs for both sources and the permitting authority for specific source categories that typically have actual emissions far below their potential to emit. The following is an analysis of the SSOA program for each source category it entails. This analysis will compare the SSOA program to the October 15, 1993, USEPA policy memorandum titled ''Guidance for State Rules for Optional Federally-Enforceable Emissions Limits Based on Volatile Organic Compound (VOC) Use'', from D. Kent Berry, Acting Director of the Air Quality Management Division, where appropriate.

In this action, USEPA proposes approval of the SIP revision request submitted to USEPA on October 25, 1994, and revised on January 16, 1996, for the 326 IAC 2–9 regulation because the regulation is adequate to limit potential emissions of industrial or commercial surface coating operations, graphic arts operations, and grain elevators to below the title V threshold level.

1. Industrial or Commercial Surface Coating Operations or Graphic Arts Operations

This portion of the SSOA regulation has been divided into 2 subcategories. The first subcategory (326 IAC 2–9–2(a)) is for eligible surface coating or graphic arts sources which are not modifications to major sources in Lake or Porter County subject to 326 IAC 2–3–3 and which are not subject to 326 IAC 8–2 or 8–5–5. The second subcategory (326 IAC 2–9–2(b)) is for any eligible surface coating or graphic arts sources. USEPA proposes approval of 326 IAC 2–9–2(a) and (b).

a. 326 IAC 2–9–2(a)

This section allows industrial or commercial surface coating operations or graphic arts operations who wish to opt into the SSOA program to limit their VOC or hazardous air pollutant (HAP) emissions to less than the major source threshold. 326 IAC 2–9–2(a)(1) limits the total amount of VOC delivered to a source less the amount of VOC shipped off the site to 2 tons per month (tpm) or less (this equals 24 tons per year (tpy)). 326 IAC 2–9–2(a)(1) limits the total amount of HAPs delivered to a source less the amount of HAP shipped off the site to 0.2 tpm (2.4 tpy) for a single HAP

and 0.5 tpm (6 tpy) for any combination of HAPs. The following are recordkeeping and reporting requirements for sources subject to 326 IAC 2–9–2(a):

i. 326 IAC 2–9–1(f) requires sources to prepare and maintain (1) monthly consumption records of all materials used that contain VOCs or HAPs, including the VOC or individual HAP content of each such material; (2) records summarizing all VOC and individual HAP emissions on a monthly basis; and (3) all purchase orders and invoices for any VOC or HAP containing material.

ii. 326 IAC 2–9–2(a)(4) requires sources to provide a summation of VOC and individual HAP emissions to IDEM on a monthly basis. This paragraph also requires an annual notice which includes an inventory listing monthly VOC and HAP totals and total VOC and HAP emissions for the previous 12 months.

iii. 326 IAC 2–9–2(a)(3) requires sources to maintain purchase orders and invoices for any VOC or HAP containing material used.

iv. 326 IAC 2–9–1(g) states that any records required to be kept by a source shall be maintained at the site for at least 5 years and shall be made available for inspection by IDEM upon request.

v. 326 IAC 2–9–1(h) requires any source subject to a SSOA to report to IDEM any exceedance of a requirement contain in the SSOA or the SSOA regulation within one week of its occurrence.

vi. 326 IAC 2–9–1(c) requires SSOA requests to be signed by a responsible official who shall certify that the information contained in the request is accurate, true, and complete.

These requirements are consistent with the guidelines outlined in the October 15, 1993, D. Kent Berry memorandum.

b. 326 IAC 2–9–2(b)

This section allows industrial or commercial surface coating operations or graphic arts operations who wish to opt into the SSOA program to limit their VOC or HAP emissions to less than 25 percent of the major source threshold.

326 IAC 2–9–2(b)(1) limits the total amount of VOC delivered to a source less the amount of VOC shipped off the site to 15 pounds per day (lb/day) or less (2.74 tpy) for sources located outside Lake or Porter County and to 7 lb/day (1.28 tpy) for sources located in Lake or Porter County. 326 IAC 2–9–2(a)(1) limits the total amount of HAPs delivered to a source less the amount of HAP shipped off the site to 3 lb/day (0.55 tpy) for a single HAP and 7 lb/day (1.28 tpy) for any combination of HAPs. 326 IAC 2–9–2(b) has the same requirements as 326 IAC 2–9–2(a) except that a monthly summation of VOC and individual HAP emissions is not required. An annual summation of VOC and HAP emissions is required in this subsection. This is consistent with the guidelines outlined in the October 15, 1993, D. Kent Berry memorandum.

2. Grain Elevators

This portion of the SSOA regulation has been divided into 2 subcategories. The first subcategory (326 IAC 2–9–2(e)(1)) is for grain elevators with a storage capacity of less than 1,000,000 U.S. bushels and an annual throughput of less than 3,000,000 U.S. bushels. The second subcategory (326 IAC 2–9–2(e)(2)) is for grain elevators with a storage capacity of between than 1,000,000 and 2,500,000 U.S. bushels and an annual throughput of less than 10,000,000 U.S. bushels. USEPA proposes approval of 326 IAC 2–9–2(e).

Title V applicability major source threshold level for particulate matter is 100 tpy and will be based on PM_{10} emissions. The Indiana Title V regulation allows source subject to 326 IAC 2–9 to be exempt from Title V. The throughput limit of 326 IAC 2–9–2(e)(1), when calculated with accepted emission factors for this type of source, is sufficient to limit the potential to emit of PM_{10} from a grain elevator to below the Title V threshold level. The throughput limit and the control requirements of 326 IAC 2–9–2(e)(2), when calculated with accepted emission factors for this type of source, are sufficient to limit the potential to emit of PM_{10} from a grain elevator to below the Title V threshold level.

Based on the issues outlined above, USEPA proposes approval of 326 IAC 2–9–2(e) in this action.

3. Conclusion

326 IAC 2–9 limits source emissions below the major source threshold level and requires monthly or annual reporting requirements. USEPA proposes approval of 326 IAC 2–9–1, 2–9–2(a), and 2–9–2(b) of the Indiana SSOA program, which provide industrial or commercial surface coating operations and graphic arts operations the opportunity to be subject to generic enforceable limits on potential to emit. These portions of the regulation are consistent with the October 15, 1993, USEPA memorandum titled ''Guidance for State Rules for Optional Federally-Enforceable Emissions Limits Based on Volatile Organic Compound (VOC) Use''. EPA also proposes approval of 326 IAC 2–9–2(e), which provides grain elevators the opportunity to be subject to generic enforceable limits on potential to emit.

III. Rulemaking Action

The USEPA approves the plan revisions submitted on October 25, 1994, to implement 326 IAC 2–9–1 and 326 IAC 2–9–2(a), (b), and (e) of the SSOA regulations. Each of the program elements mentioned above were properly addressed. The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this Federal Register publication, which constitutes a ''proposed approval'' of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The ''direct final'' approval shall be effective on June 3, 1996, unless USEPA receives adverse or critical comments by May 2, 1996.

If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date, and publish a subsequent final rule which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking document.

Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on June 3, 1996. The Office of Management and Budget has exempted this action from review under Executive Order 12866.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements

IV. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. § 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. §§ 603 and 604. Alternately, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under Section 110 and Subchapter I, Part D, of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *USEPA*, 427 U.S. 246, 256–66 (1976).

V. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, the USEPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, the USEPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The USEPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves programs that are not Federal mandates. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Lead, Particulate matter, Sulfur dioxide, Volatile organic compounds.

Dated: February 12, 1996.

David A. Ullrich,

Acting Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended to read as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart P—Indiana

2. Section 52.770 is amended by adding paragraph (c)(105) to read as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(105) On October 25, 1994, the Indiana Department of Environmental Management submitted a requested revision to the Indiana State Implementation Plan in the form of Source Specific Operating Agreement (SSOA) regulations. The SSOA regulations are intended to limit the potential to emit for a source to below the threshold level of Title V of the Clean Air Act. This revision took the form of an amendment to title 326: Air Pollution Control Board of the Indiana Administrative Code (326 IAC) 2–9–1, 2–9–2(a), 2–9–2(b), and 2–9–2(e) Source Specific Operating Agreement Program.

(i) Incorporation by reference. 326 Indiana Administrative Code 2–9. Sections 1, 2(a), 2(b), and 2(e). Adopted by the Indiana Air Pollution Control Board March 10, 1994. Signed by the Secretary of State May 25, 1994. Effective June 24, 1994. Published at Indiana Register, Volume 17, Number 10, July 1, 1994.

[FR Doc. 96–7907 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[KY20–1–9612a; FRL–5447–8]

Approval and Promulgation of Implementation Plans Kentucky: Approval of Revisions to the Kentucky State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Kentucky State Implementation Plan (SIP) submitted on June 15, 1983, by the Commonwealth of Kentucky through the Natural Resources and Environmental Protection Cabinet (Cabinet). The revisions pertain to Kentucky regulations 401 KAR 50:025, Classification of counties, and 401 KAR 61:015, Existing indirect heat exchangers. The purpose of these revisions is to reclassify McCracken County from a Class I area to a Class IA area, with respect to sulfur dioxide (SO_2), and to allow a relaxation of the SO_2 emission limit in McCracken County.

DATES: This action is effective June 3, 1996, unless notice is received by May 2, 1996, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, Atlanta, Georgia 30365.

Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601–1403.

FOR FURTHER INFORMATION CONTACT: Mr. Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air Pesticides and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is (404) 347–3555 ext. 4216.

SUPPLEMENTARY INFORMATION: On June 15, 1983, the Commonwealth of Kentucky through the Cabinet submitted revisions to the SO_2 SIP. The revisions pertain to Kentucky regulations 401 KAR 50:025, Classification of counties, and 401 KAR 61:015, Existing indirect heat exchangers. The purpose of these revisions is to reclassify McCracken County from a Class I area to a Class IA area, with respect to SO_2, and to allow a relaxation of the SO_2 emission limit in McCracken County. The revisions are described below:

(1) 401 KAR 50:025. Classification of Counties

On July 2, 1982, McCracken County was redesignated by the EPA from non-attainment to attainment for SO_2. The

Kentucky Division of Air Pollution has determined that the relaxed emission limitations contained in these amendments will not affect the SO_2 air quality of McCracken County sufficiently to cause a threat to its environment or to the health and welfare of its citizens. Therefore, the revision changes McCracken County's classification, with respect to SO_2, from Class I to Class IA.

(2) 401 KAR 61:015. Existing Indirect Heat Exchangers

Paragraph 5 is added to Section 5. Standard for Sulfur Dioxide. The paragraph reads as follows: In counties classified as IA with respect to sulfur dioxide, at sources having a total rated heat input greater than fifteen hundred million BTU per hour (1500 MM BTU/hr.) as determined by Section 3(1), the department shall allow one (1) affected facility, as specified on the operating permit, to emit sulfur dioxide at a rate not to exceed a twenty-four (24) hour average of 8.0 pounds per million BTU, during those periods of time when the affected facility is being operated for the purpose of generating high sulfur dioxide content flue gases for use in any experimental sulfur dioxide removal system.

(3) Appendix B of 401 KAR 61:015

A new equation is added for the calculation of SO_2 emission limits for counties classified as Class IA.

The purpose of these revisions is to allow the TVA Shawnee Power Plant to continue its scrubber research program by increasing the allowable SO_2 emission limit from 1.2 lbs to 8.0 lbs per million BTU heat input for only one of its units while conducting scrubber research and to allow the Paducah Gaseous Diffusion Plant to increase its emission rate from 1.2 lb SO_2 to 3.1 lbs SO_2 per million BTU heat input. After extensive air dispersion modeling using the Multiple Point Gaussian Dispersion Algorithm with Terrain Adjustment (MPTER) and the Single Source Dispersion Algorithm with Terrain Adjustment (CRSTER), the Kentucky Division for Air Quality has determined that the relaxed emission limitations proposed in these amendments will not affect the air quality of McCracken County, as it relates to SO_2, in such a way as to cause a threat to its environment or to the health and welfare of its citizens. The EPA concurs with the determination by the Kentucky Division for Air Quality.

Final Action

EPA is approving the above referenced revisions to the Kentucky SIP. This action is being taken without prior proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective June 3, 1996, unless, by May 2, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective June 3, 1996.

Under section 307(b)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 3, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2) of the CAA, 42 U.S.C. 7607(b)(2)).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action shall be construed as permitting or allowing or establishing a precedent for any future request for a revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under 110 and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Unfunded Mandates

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under section 110 of the CAA. These rules may bind State, local and tribal governments to perform certain duties. EPA has examined whether the rules being approved by this action will impose any mandate upon the State, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector. EPA's action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. Therefore, this final action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or

tribal governments in the aggregate or to the private sector.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 13, 1996.

Phyllis P. Harris,

Acting Regional Administrator.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart S—Kentucky

2. Section 52.920, is amended by adding paragraph (c) (83) to read as follows:

§ 52.920 Identification of plan.

* * * * *

(c) * * *

(83) Revisions to the Kentucky State Implementation Plan submitted by the Natural Resources and Environmental Protection Cabinet on June 15, 1983.

(i) Incorporation by reference.

401 KAR 50:025 Classification of Counties, and 401 KAR 61:015 Existing Indirect Heat Exchangers, effective June 1, 1983.

(ii) Additional material. None.

[FR Doc. 96–7908 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[TN–140–01–6910a; FRL–5443–2]

Approval and Promulgation of Air Quality Implementation Plans; Tennessee; Revision to New Source Review, Construction and Operating Permit Requirements for Nashville/ Davidson County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Nashville/Davidson County portion of the Tennessee State Implementation Plan (SIP), submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation on September 27, 1994. The submittal included revisions to Nashville/Davidson County's Regulation Three, New Source Review (NSR), Sections 3–1, 3–2 and 3–3, which were made to bring the Nashville/Davidson County regulations into compliance with the 1990 amendments to the Clean Air Act (the Act) and the Federal regulations. EPA finds that the revised rules meet the Federal nonattainment NSR permitting requirements of the Act for the State's ozone nonattainment areas.

On April 15, 1994, EPA granted limited approval of revisions to the Nashville/Davidson County portion of the Tennessee SIP. At that time several deficiencies were identified which had to be corrected for Nashville/Davidson County's NSR SIP to fully meet the requirements of the CAA. EPA finds that this submittal corrects those previous deficiencies in Nashville/Davidson County's Regulation Three, New Source Review.

DATES: This final rule is effective June 3, 1996, unless adverse or critical comments are received by May 2, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Ms. Karen Borel, at the Regional Office Address listed below.

Copies of the material submitted by the State of Tennessee may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Tennessee Division of Air Pollution Control, 9th Floor L&C Annex, 401 Church Street, Nashville, Tennessee 37243–1531

Bureau of Environmental Health Services, Metropolitan Health Department, Nashville-Davidson County, 311—23rd Avenue, North, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Interested persons wanting to examine documents relative to this action should make an appointment with the Region 4 Air Programs Branch at least 24 hours before the visiting day. To schedule the appointment or to request additional information, contact Karen C. Borel, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 EPA, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4197. Reference file TN140–01–6910.

SUPPLEMENTARY INFORMATION: On September 27, 1994, Nashville/ Davidson County submitted revisions to their portion of the Tennessee SIP in order to correct deficiencies previously identified on April 15, 1994, (59 FR 17398) and to fully satisfy the NSR and PSD requirements of the 1990 CAA. Previously, on July 13, 1990, and February 26, 1993, Nashville/Davidson County, through the State of Tennessee Department of Environment and Conservation, submitted various revisions to the Nashville/Davidson County portion of the Tennessee SIP. These earlier submittals included revisions to Regulation Three, New Source Review, and were intended to bring Nashville/Davidson County's regulations into conformity with EPA's Prevention of Significant Deterioration (PSD) increments for Nitrogen dioxides (NO2) and the EPA's current NSR requirements. Nashville/Davidson County was granted limited approval on the earlier submittals on April 15, 1994, (59 FR 17398) because those submittals as a whole substantially strengthened the Nashville/Davidson County portion of the Tennessee SIP. On September 27, 1994, Nashville/Davidson County submitted additional revisions to Regulation Three, Sections 3–1, 3–2 and 3–3. These revisions to their NSR regulations were made to correct the deficiencies identified in the April 15, 1994, Federal Register (59 FR 17938) and to bring Nashville/Davidson County's rules into compliance with the Act, as amended in 1990, and revised Federal regulations.

The current SIP revision was reviewed by EPA to determine completeness, and a letter of completeness dated November 17, 1994, was sent to the State of Tennessee. EPA finds that the revisions provide for consistency with the Act and corresponding Federal regulations, that the revisions meet the new nonattainment NSR provisions for nonattainment areas, and that the revisions correct the previously identified deficiencies. EPA is approving the following revisions to the Nashville/Davidson County portion of the Tennessee SIP.

Regulation Three, New Source Review

(A) Section 3–1 Definitions

Section 3–1(i): The definition of ''commenced'' has been modified by adding ''has all necessary preconstruction approvals or permits and'' between the words ''operator'' and ''has''.

Section 3–1(l): The definition of ''emission offset'' has been modified by adding ''actual'' between the words ''of'' and ''emissions''.

Section 3–1(s): The definition of ''lowest achievable emission rate (LAER)'' has been deleted in its entirety and replaced with the following definition:

''(s) Lowest Achievable Emission Rate (LAER)—means, for any source, the more stringent rate of emissions based on the following:

(1) The most stringent emissions limitation which is contained in the implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

(2) The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within the stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance.''

Section 3–1(t): The definition for ''major modification'' has been modified by replacing ''new'' with ''net''.

Section 3–1(u)(2): The definition for ''major stationary source'' has been modified by adding ''or'' after ''1,000 lbs/day'' and before ''100 lbs/hour''.

Section 3–1(bb): The definition for ''reasonable further progress'' has been deleted in its entirety and replaced with the following definition:

''(bb) Reasonable Further Progress—Means such annual incremental reductions in emissions of the relevant air pollutant as are required by the Clean Air Act or may reasonably be required by the Director for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date.''

Section 3–1: The following definition for ''legally enforceable'' has been added:

''Legally Enforceable—means all limitations and conditions which are enforceable by the Director and Administrator, which includes all provisions of Chapter 10.56 ''Air Pollution Control'' of the Metropolitan Code of Law, this Regulation, any provisions of the State Implementation Plan, and any permit conditions.''

Section 3–1: This section has also been recodified to allow the new definitions to be added in alphabetical order.

(B) Section 3–2 Registration and Permits

Section 3–2(b)(2)(ii): This subparagraph was modified by replacing ''request'' with ''represent'' between the words ''to'' and ''reasonable''.

Section 3–2(b)(3): This paragraph was modified by replacing the phrase ''A major volatile organic compound stationary source'' with the new phrase ''A stationary source of modification that is major due to volatile organic compound or nitrogen oxide emissions''.

Section 3–2(d): This paragraph was modified by adding ''as though construction had not yet commenced on the source or modification'' at the end of the sentence.

Section 3–2(e): This paragraph was modified by adding ''the Administrator and'' between the words ''notify'' and ''the''.

(C) Section 3–3 Prevention of Significant Deterioration (PSD) Review

Section 3–3(e)(2)(i): This subparagraph was deleted in its entirety and replaced with the following:

''(i) Particulate Matter—PM10:
Annual Arithmetic Mean 17 $\mu g/m^3$
24–Hour maximum 30 $\mu g/m^3$''

These limits are being revised appropriately to replace the former limits for total suspended particulates (TSP), in accordance with the requirements of the 1990 CAA.

Section 3–3(f): This paragraph was deleted in its entirety and replaced with the following paragraph:

''(f) All applications of air quality modeling required under this Section shall be based on the applicable models data bases and all other requirements specified in Appendix W of 40 CFR Part 51 (''Guideline on Air Quality Models (Revised)'' (1986), Supplement A (1987) and Supplement B (1993)). Where an air quality model specified in Appendix W of 40 CFR Part 51 is inappropriate, the model may be modified or another model substituted on a case-by-case basis provided that written approval is obtained from the Director for any such modification or substitution. Furthermore, the use of a modified or substitute model will be subject to notice and opportunity for public comment under the provisions set forth in 40 CFR Part 51, Subpart 51.102.''

This new paragraph meets the requirements set forth in 40 CFR Part 51.160(f)(1) and (2). New sources in the Nashville/Davidson County area must now base their application of air quality modeling on the requirements of 40 CFR Part 51, Appendix W, which is the most up-to-date guidance. If this model is not appropriate, a different air quality model may be substituted, but only with written approval of their Director.

Final Action

EPA is approving revisions to the Nashville/Davidson County Regulation Number Three New Source Review. Specifically, EPA is approving Nashville/Davidson County's submittal as meeting the NSR requirements of the 1990 amendments to the Act for the State's ozone nonattainment areas. EPA is also rescinding the previous limited approval [59 FR 17938].

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on June 3, 1996, by May 2, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 3, 1996.

Under section 307(b)(1) of the Act, 42 U.S.C. § 7607 (b)(1), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 3, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. [See section 307(b)(2) of the Act, 42 U.S.C. § 7607 (b)(2).]

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and

Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et. seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small business, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section 165 of the CAA. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. EPA has examined whether the rules being approved by this action will impose no new requirements, since such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action, and therefore there will be no significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: March 4, 1996.

Phyllis P. Harris,

Acting Regional Administrator.

Part 52, of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401–7671q.

Subpart RR—Tennessee

2. Section 52.2220 is amended by adding paragraph (c)(133) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(133) On September 27, 1994, the State submitted revisions to the Nashville/Davidson County portion of the Tennessee State Implementation Plan (SIP) on behalf of Nashville/Davidson County. These were revisions to the new source review requirements in the Nashville/Davidson County regulations. These revisions incorporate changes to Regulation Number Three, Sections 3–1, 3–2 and 3–3 of the Nashville/Davidson County portion of the Tennessee SIP which bring this into conformance with the new requirements which are required in 40 CFR part 52, subpart I.

(i) Incorporation by reference.

Metropolitan Health Department Division of Pollution Control Regulation Number 3 New Source Review, as amended on August 9, 1994.

(ii) Other material. None.

* * * * *

[FR Doc. 96–7911 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[PA028–5913a; FRL–5427–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania-Emission Statement Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the Allegheny County portion of the SIP. This revision consists of an emission statement program for stationary sources that emit volatile organic compounds (VOCs) and/or nitrogen oxides (NO_X) at or above specified actual emission threshold levels. The intended effect of this action is to approve a regulation for annual reporting of actual emissions by sources that emit VOC and/or NO_X within the county of Allegheny in accordance with the 1990 Clean Air Act (CAA). This action is being taken under section 110 of the CAA.

DATES: This action is effective June 3, 1996 unless notice is received on or before May 2, 1996 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Comments must be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA office listed above; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; Allegheny County Health Department, Bureau of Air Pollution Control, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 597–3164, at the EPA Region III address above. Information can also be requested via E-mail (Quinto.rose@epamail.epa.gov); however, comments must still be submitted in writing.

SUPPLEMENTARY INFORMATION: On December 31, 1992, the Commonwealth

of Pennsylvania Department of Environmental Protection (PaDEP) submitted a SIP revision to EPA on Emission Statements. This revision would add new section E to the Allegheny County Health Department-Bureau of Air Pollution Control (ACHD) Rules and Regulations, Article XX, Chapter II (Inspections, Reporting, Tests and Monitoring), § 202 (Reporting Requirements).

I. Background

The air quality planning and SIP requirements for ozone nonattainment and transport areas are set out in subparts I and II of Part D of Title I of the CAA, as amended by the Clean Air Act Amendments of 1990. EPA published a ''General Preamble'' describing EPA's preliminary views on how it intends to review SIPs and SIP revisions submitted under Title I of the CAA, including those state submittals for ozone transport areas within the states {see 57 FR 13498 (April 16, 1992) [''SIP: General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990''], 57 FR 18070 (April 28, 1992) [''Appendices to the General Preamble''], and 57 FR 55620 (November 25, 1992) [''SIP: NO_x Supplement to the General Preamble'']**}**.

EPA also issued a draft guidance document describing the requirements for the emission statement programs discussed in this action, entitled ''Guidance on the Implementation of an Emission Statement Program'' (GESP), July, 1992. EPA is also conducting a rulemaking process to modify Title 40, Part 51 of the CFR to reflect the requirements of the emission statement program.

Section 182 of the CAA sets out a graduated control program for ozone nonattainment areas. Section 182(a) sets out requirements applicable in marginal ozone nonattainment areas, which are also applicable by sections 182(b), (c), (d), and (e) to all other ozone nonattainment areas. Among the requirements in section 182(a) is a program for stationary sources to prepare and submit to the state each year emission statements certifying their actual emissions of VOCs and NO_X. This section of the CAA provides that the states are to submit a revision to their SIPs by November 15, 1992 establishing this emission statement program.

If a source emits either VOC or NO_X at or above the designated minimum reporting level, the other pollutant should be included in the emission statement, even if it is emitted at levels below the specified cutoffs.

States may waive, with EPA approval, the requirement for an emission statement for classes or categories of sources with less than 25 tons per year of actual plant-wide NO_X or VOC emissions in nonattainment areas if the class or category is included in the base year and periodic inventories and emissions are calculated using emissions factors established by EPA, such as those found in the EPA publication AP–42, ''Compilation of Air Pollutant Emission Factors'' (AP–42, Fifth Edition, January 1995), or other methods acceptable to EPA.

At minimum, the emission statement data should include:

—certification of data accuracy;
—Source identification information;
—Operating schedule;
—Emissions information (to include annual and typical ozone season day emissions);
—Control equipment information; and
—P rocess data.

EPA developed emission statements data elements to be consistent with other source and state reporting requirements. This consistency is essential to assist states with quality assurance for emission estimates and to facilitate consolidation of all EPA reporting requirements.

II. EPA's Evaluation of Pennsylvania's Submittal

A. Procedural Background

In accordance with the requirements of 40 CFR § 51.102, ACHD held a public hearing on August 27, 1992 to solicit public comments on the implementation plan for Allegheny County, Pennsylvania. Following the public hearing, the plan was adopted on September 16, 1992 and submitted to EPA on December 31, 1992 as a revision to the SIP.

B. Components of Pennsylvania's Emission Statement Program

There are several key and specific components of an acceptable emission statement program. Specifically, Pennsylvania must submit a revision to its SIP consisting of an emission statement program that meets the minimum requirements for reporting by the sources and the state. For the emission statement program to be approvable, Pennsylvania's SIP revision must include, at a minimum, definitions and provisions for applicability, compliance, and specific source reporting requirements and reporting forms.

Pennsylvania's emission statement report form has been revised by amending and adding the definitions of the following terms: actual emissions, annual fuel process rate, certifying individual, control efficiency, emission factor, emission method code, emission units, facility, oxides of nitrogen, peak ozone season, percent seasonal throughput, process rate, and volatile organic compounds.

ACHD Rules and Regulations, Article XX, Chapter II, § 202, section E requires that persons responsible for each stationary source that emits 25 tpy or more of NO_X or VOC per calendar year shall report the levels of emissions from the sources in order to track emission reductions and attain the National Ambient Air Quality Standard (NAAQS). The reporting provisions waives the requirement for sources that emit less than 25 tpy under the condition that the class or category is included in the base year and periodic inventories, and the emission factors established by EPA or other methods acceptable to EPA. In addition, section E also requires that a certifying official for each facility provide Pennsylvania with a statement reporting emissions by April 30 of each year, beginning with April 30, 1993 for the emissions discharged during the previous calendar year. Section E in conjunction with the report form provisions, provide specific requirements for the content of these annual emission statements.

C. Enforceability

The Commonwealth of Pennsylvania has provisions in its SIP which ensure that the emission statement requirements of section 182(a)(3)(B) and sections 184(b)(2) and 182(f) of the CAA, as required by new section E to the ACHD Rules and Regulations, Article XX, Chapter II (Inspections, Reporting, Tests and Monitoring), § 202 (Reporting Requirements), are adequately enforced.

EPA has determined that the submittal made by the Commonwealth of Pennsylvania satisfies the relevant requirements of the CAA and EPA's guidance document, ''Guidance on the Implementation of an Emission Statement Program'' (GESP), July 1992. EPA's detailed review of Pennsylvania's Emission Statement Program is contained in a Technical Support Document (TSD) which is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

III. Final Action

EPA is approving a revision to the Pennsylvania SIP to include an Emission Statement Program consisting of the addition of new section E to the Allegheny County Health Department-Bureau of Air Quality Control (ACHD) Rules and Regulations, Article XX,

Chapter II (Inspections, Reporting, Tests and Monitoring), § 202 (Reporting Requirements). This revision was submitted to EPA by the Commonwealth of Pennsylvania on December 31, 1992.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will become effective June 3, 1996 unless, by May 2, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on June 3, 1996.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision of any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410 (a)(2).

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under state or local law, and imposes no new Federal requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

This action has been classified as Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 3, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving Pennsylvania's Emission Statement Program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Volatile organic compounds, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, and SIP requirements.

Dated: February 2, 1996.

W. T. Wisniewski,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(97) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(97) Revisions to the Pennsylvania State Implementation Plan submitted by the Secretary, Pennsylvania Department of Environmental Protection on December 31, 1992.

(i) Incorporation by reference.

(A) Letter dated December 31, 1992 from the Secretary, Pennsylvania Department of Environmental Protection, submitting a revision to the Allegheny County portion of the Pennsylvania State Implementation Plan.

(B) Addition of new section E to the Allegheny County Health Department-Bureau of Air Pollution Control (ACHD) Rules and Regulations, Article XX, Chapter II (Inspections, Reporting, Tests and Monitoring), § 202 (Reporting Requirements) were effective on October 8, 1992. This revision consists of an emission statement program for stationary sources which emit volatile organic compounds (VOCs) and/or nitrogen oxides (NO_X) at or above specified actual emission threshold levels. This program applies to stationary sources within the county of Allegheny.

(ii) Additional material.

(A) Remainder of December 31, 1992 state submittal pertaining to Pennsylvania Emission Statement Program.

* * * * *

[FR Doc. 96–7913 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 81

[TX–59–1–7268; FRL–5451–1]

Designation of Areas for Air Quality Planning Purposes; State of Texas; Correction of the Design Value and Classification for the Beaumont/Port Arthur Ozone Nonattainment Area

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This document announces the Administrator's decision to correct the design value and classification of the Beaumont/Port Arthur ozone nonattainment area. The Beaumont/Port Arthur area (the area) was classified as a serious ozone nonattainment area by EPA on November 6, 1991. However, EPA has determined that the ozone design value of 0.160 parts per million (ppm) published by EPA and used in classifying the area as a serious ozone nonattainment area was incorrect. The correct monitored ozone design value was 0.158 ppm. This design value falls within the range of values considered as moderate nonattainment for ozone under the Clean Air Act Amendments of 1990 (CAAA). Pursuant to section 110(k)(6) of the CAAA, which allows EPA to correct its actions, EPA is today publishing the correct design value of 0.158 ppm and is granting the State's request to correct the classification of the area from serious to moderate.

EFFECTIVE DATE: This action will become effective on June 3, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Mick Cote, Air Planning Section (6PD-L), U.S. Environmental Protection Agency, Region VI, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7219.

SUPPLEMENTARY INFORMATION:

Background

Prior to the CAAA, EPA identified and designated nonattainment areas with respect to the National Ambient Air Quality Standards (NAAQS). For such areas, States submitted State Implementation Plans (SIPs) to control emissions and achieve attainment of the NAAQS. The Beaumont/Port Arthur area, initially comprised of Jefferson and Orange Counties, was originally designated as nonattainment for ozone on March 3, 1978 (43 FR 8962). Hardin County is part of the area's Metropolitan Statistical Area, and as such was included in the Beaumont/Port Arthur area with Jefferson and Orange Counties on November 6, 1991 (56 FR 56694). The SIP for the area was first adopted in the early 1970's.

Under the CAAA, the area retained its designation of nonattainment and was classified as serious by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAAA. See 56 FR 56694 (November 6, 1991). This classification was required to be based on the design value for the area. The monitored design value was rounded to two decimal places by the State and reported to EPA as 0.16 ppm. Section 179B defines the ranges of design values associated with each classification. Moderate areas were defined by design values from 0.138 ppm to 0.160 ppm. Serious areas were defined by design value ranges from 0.160 ppm to 0.180 ppm.

Since the reported design value for the area made it difficult to determine the classification, the design value of a special purpose monitor was used to assist EPA in determining whether the area should be classified as moderate or serious. This special purpose monitor had a design value of 0.180 ppm, which lead EPA to believe that the serious classification was more appropriate. The EPA published the design value as 0.160 ppm in its November 6, 1991 Federal Register document, and classified the area as serious. The Texas Natural Resource Conservation Commission recently discovered a data file which allowed the State to recalculate the actual design value of the 4th highest hourly peak ozone concentration at the State-run monitoring site in Beaumont to three decimal places. The actual design value for the May 28, 1989 exceedance has been calculated at 0.158 ppm.

Correction of Error Under Section 110(k)(6)

Section 110(k)(6) of the Act provides whenever the Administrator determines that the Administrator's action approving, disapproving, or promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public. The EPA interprets this provision to authorize the Agency to make corrections to a promulgation when it is shown to EPA's satisfaction that an error occurred in failing to consider or inappropriately considering information available to EPA at the time of the promulgation, or the information made available at the time of promulgation is subsequently demonstrated to have been clearly inadequate.

The EPA's initial action classifying the Beaumont/Port Arthur area was based on an ozone design value obtained from the State monitoring network of 0.16 ppm, along with consideration of some data from a special purpose monitor. The design value submitted to EPA by the State at the time the classification was promulgated has subsequently been proven to be inadequate. A corrected design value of 0.158 ppm obtained from the State monitoring network during the initial classification timeframe has recently been submitted to EPA by the State and deemed accurate.

Further, the EPA has since determined that data from the special purpose monitor (SPM) should not have been used for classification purposes since 1) the SPM is not part of the State monitoring network, 2) the data from this monitor are for research purposes, 3) these data are not reported to EPA's Aerometric Information Retrieval System, and 4) the SPM data used to assist in making the original design value determination were collected in 1990, outside of the 1987–1989 timeframe generally associated with classification determinations.

Final Action

In the Federal Register of November 6, 1991 (56 FR 56694), EPA issued a final rule promulgating the designations, boundaries, and classifications of ozone nonattainment areas (and for nonattainment areas for other pollutants not addressed in this action). Accordingly, in today's action, EPA is correcting this error by publishing the correct design value of 0.158 ppm for the Beaumont/Port Arthur area, and correcting the classification of the area from serious to moderate for ozone in accordance with section 110(k)(6). In accordance with CAAA sections 107(d)(2)(B), and 110(k)(6), this document is a final publication of the ozone design value for the Beaumont/Port Arthur area and the classification of the area to a moderate ozone nonattainment area, and is not subject to the notice and comment provisions of sections 553 through 557 of Title 5. Designation of Areas for Air Quality Planning Purposes; State of Texas; Correction of the Design Value and Classification for the Beaumont/Port Arthur Ozone Nonattainment Area (Page 6 of 7).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 26, 1996.

Carol M. Browner,

Administrator.

40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7871q.

2. In § 81.344, the ozone table is amended by revising the entry for the Beaumont/Port Arthur Area to read as follows:

§ 81.344 Texas.

* * * * *

TEXAS—OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Beaumont/Port Arthur Area:				
Hardin County	.....	Nonattainment	.....	Moderate
Jefferson County	.....	Nonattainment	.....	Moderate
Orange County	.....	Nonattainment	.....	Moderate
* * *	*	* *	*	* *

[1] This date is November 15, 1990, unless otherwise noted.

* * * * *

[FR Doc. 96–8003 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 167

[OECA; FRL–5451–8]

Pesticide Reports for Pesticide-Producing Establishments (EPA Form 3540–16); Additional Time to Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction.

SUMMARY: In Federal Register Volume 61, No. 43, appearing on pages 8221 and 8222 in the issue of Monday, March 4, 1996, make the following correction to the date for reporting 1995 annual pesticide production information.

On page 8221, in the third column, under **DATES:** should be changed to read: ''Annual pesticide production reports for the calendar year 1995 will not be due until two (2) months after the reporting packages are mailed out. A subsequent Federal Register notice will announce the mail out date and will establish the due date for submission of the 1995 reports.''

FOR FURTHER INFORMATION CONTACT: Carol L. Buckingham, (202) 564–5008, fax (202) 564–0085, Environmental Protection Agency, Mail Code 2225A, 401 M Street SW., Washington, D.C. 20460.

Dated: March 26, 1996.

Sylvia K. Lowarance,

Acting Assistant Administrator, Office of Enforcement and Compliance Assurance.

[FR Doc. 96–8002 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7637]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATE: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street, SW., room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Acting Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory

Flexibility Act, 5 U. S. C. 601 et seq., because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date
New Eligibles—Emergency Program			
Michigan: Laingsburg, city of, Shiawassee County.	260950	February 8, 1996.	
South Dakota: Jerauld County, unincorporated areas.	460273	February 22, 1996.	
Texas:			
Miles, city of, Runnels County.	480992	February 23, 1996	August 13, 1976.
Cockrell Hill, city of, Dallas County.	480169	February 29, 1996	June 11, 1976.
New Eligibles—Regular Program			
Pennsylvania: East Pittsburgh, borough of, Allegheny County.	422662	February 7, 1996	October 4, 1995.
Michigan: Lincoln, township of, Newaygo County.	260828	February 21, 1996	September 27, 1991.
Indiana:			
Oldenburg, town of, Franklin County.	180509	February 29, 1996	November 2, 1995.
Mt. Carmel, town of, Franklin County.	180508	.....do	Do.
Illinois: Shiloh, village of, St. Clair County [1].	171043	.....do.	
Reinstatements			
Pennsylvania:			
Crescent, township of, Allegheny County.	421060	January 24, 1975, Emerg.; July 16, 1981, Reg.; October 4, 1995, Susp.; February 5, 1996, Rein.	October 4, 1995.
Glenfield, borough of, Allegheny County.	420039	July 9, 1975, Emerg.; March 18, 1980, Reg.; October 4, 1995, Susp.; February 5, 1996, Rein.	Do.
Rosslyn Farms, borough of, Allegheny County.	420069	February 7, 1975, Emerg.; May 19, 1981, Reg.; October 4, 1995, Susp.; February 5, 1996, Rein.	Do.
Whitaker, borough of, Allegheny County.	420087	July 24, 1975, Emerg.; May 25, 1976, Reg.; October 4, 1995, Susp.; February 6, 1996, Rein.	Do.
West Virginia: Pocahontas County, unincorporated areas.	540283	February 12, 1976, Emerg.; October 17, 1989, Reg; October 17, 1989, Susp.; May 1, 1991, Rein.; November 3, 1993, Susp.; February 6, 1996, Rein.	October 17, 1989.
Montana: Whitehall, town of, Jefferson County.	300120	May 7, 1975, Emerg.; June 4, 1987, Reg.; March 4, 1988, With.; February 8, 1996, Rein.	June 4, 1987.
West Virginia: Oakvale, town of, Mercer County.	540127	July 1, 1975, Emerg.; December 15, 1983, Reg.; December 17, 1991, Susp.; February 7, 1996, Rein.	December 15, 1983.
New York: Hannibal, town of, Oswego County.	360651	September 6, 1985, Emerg.; February 1, 1988, Reg.; November 4, 1982, Susp.; February 7, 1996, Rein.	February 1, 1988.
Illinois: Crete, village of, Will County.	170700	May 21, 1975, Emerg.; March 2, 1981, Reg.; September 6, 1995, Susp.; February 15, 1996, Rein.	September 6, 1995.
Pennsylvania:			
Greensborough, borough of, Greene County.	420477	December 2, 1975, Emerg.; March 2, 1989, Reg.; September 6, 1995, Susp.; February 20, 1996, Rein.	Do.

State/location	Community No.	Effective date of eligibility	Current effective map date
Port Vue, borough of, Allegheny County.	420066	April 30, 1974, Emerg.; September 28, 1979, Reg.; October 4, 1995, Susp.; February 29, 1996, Rein.	October 4, 1995.
Regular Program Conversions			
Region II:			
New Jersey:			
North Wildwood, city of, Cape May County.	345308	February 16, 1996, Suspension Withdrawn	February 16, 1996.
Wildwood, city of, Cape May County.	345329	.....do	Do.
Wildwood Crest, borough of, Cape May County.	345330	.....do-	Do.
Region VI:			
Wisconsin:			
Verona, city of, Dane County.	550092	.....do	Do.
Watertown, city of, Dodge and Jefferson Counties.	550107	.....do	Do.
Region VI:			
Texas:			
Balcones Heights, city of, Bexar County.	481094	.....do	Do.
Bexar County, unincorporated areas.	480035	.....do	Do.
Castle Hills, city of, Bexar County.	480037	.....do	Do.
China Grove, city of, Bexar County.	481141	.....do	Do.
Converse, city of, Bexar County.	480038	.....do	Do.
Fair Oaks Ranch, city of, Bexar County.	481644	.....do	Do.
Hollywood Park, town of, Bexar County.	480040	.....do	Do.
Kirby, city of, Bexar County.	480041	.....do	Do.
Leon Valley, city of, Bexar County.	480042	.....do	Do.
Live Oak, city of, Bexar County.	480043	.....do	Do.
Shavano Park, city of, Bexar County.	480047	.....do	Do.
Somerset, city of, Bexar County.	481264	.....do	Do.
Universal City, city of, Bexar County.	480049	.....do	Do.
Windcrest, city of, Bexar County.	480689	.....do	Do.

[1] The Village of Shiloh has adopted St. Clair County's (CID #170616) Flood Insurance Rate Map and study dated 8–5–85 for floodplain management and insurance purposes (Panels number 0047B & 0070B).

Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With.—Withdrawn.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Issued: March 11, 1996.

Richard W. Krimm,

Acting Associate Director Mitigation Directorate.

[FR Doc. 96–7998 Filed 4–1–96; 8:45 am]

BILLING CODE 6718–05–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[DA 96–290]

General Information; Modification of Commission's Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission is modifying a section of the Commission's Rules that implements the Freedom of Information Act (FOIA) fee schedule. This modification pertains to the charge for recovery of the full, allowable direct costs of searching for and reviewing records requested under the FOIA and § 0.460(e) or § 0.461 of the Commission's rules, unless such fees are restricted or waived in accordance with § 0.470. The fees are being revised to correspond to modifications in the rate of pay approved by Congress.

EFFECTIVE DATE: May 2, 1996.

FOR FURTHER INFORMATION CONTACT: Judy Boley, Freedom of Information Act Officer, Records Management Branch, Room 234, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, (202) 418–0210.

SUPPLEMENTARY INFORMATION: The FCC is modifying Section 0.467(a) of the Commission's Rules. This rule pertains to the charges for searching and reviewing records requested under the Freedom of Information Act (FOIA). The FOIA requires federal agencies to establish a schedule of fees for the processing of requests for agency records in accordance with fee guidance issued by the Office of Management and Budget (OMB). In 1987, OMB issued its Uniform Freedom of Information Act Fee Schedule and Guidelines. However, because the FOIA requires that each agency's fees be based upon its direct costs of providing FOIA services, OMB did not provide a unitary, government-wide schedule of fees. The Commission based its FOIA fee schedule on the grade level of the employee who processes the request. Thus, the fee schedule was computed at a Step 5 of each grade level based on the General Schedule effected January 1996. The instant revisions correspond to modifications in the rate of pay recently approved by Congress.

Regulatory Procedures

This rule has been reviewed under Executive Order No. 12866 and has been determined not to be a ''significant rule'' since it will not have an annual effect on the economy of $100 million or more.

In addition, it has been determined that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 47 CFR Part 0

Freedom of information.

Federal Communications Commission.

Andrew S. Fishel,

Managing Director.

Amendatory Text

Part 0 of chapter I of title 47 of the Code of Federal Regulations is amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Section 0.467 is amended by revising the table in paragraph (a)(1) and its note, and paragraph (a)(2) to read as follows:

§ 0.467 Search and review fees.

(a)(1) * * *

Grade	Hourly fee
GS–1	8.56
GS–2	9.31
GS–3	10.50
GS–4	11.78
GS–5	13.19
GS–6	14.70
GS–7	16.33
GS–8	18.08
GS–9	19.98
GS–10	22.00
GS–11	24.17
GS–12	28.97
GS–13	34.45
GS–14	40.72
GS–15	47.89

Note: The fees in this table will be modified periodically to correspond with modifications in the rate of pay approved by Congress.

(2) The fees in paragraph (a)(1) of this section were computed at Step 5 of each grade level based on the General Schedule effective January 1996 and include 20 percent for personnel benefits.

* * * * *

[FR Doc. 96–7966 Filed 4–1–96; 8:45 am]

BILLING CODE 6712–01–P

47 CFR Parts 2 and 15

[ET Docket No. 94–124; RM–8308; FCC 95–499]

Operation above 40 GHz

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this *First Report and Order (''1st R&O'')*, the Commission adopts revisions to the frequency allocation table and establishes standards to permit the manufacture, importation and operation of vehicle-mounted radar system transmitters in the 46.7–46.9 GHz and 76–77 GHz bands and of general use, unlicensed transmitters in the 59–64 GHz band. Part of this action responds to petitions for rule making filed by General Motors Research Corporation (GM) and VORAD Safety Systems , Inc. (VORAD).

EFFECTIVE DATE: May 2, 1996. The suspension of § 15.255 is effective until a final Commission decision is reached concerning appropriate spectrum etiquette techniques. FCC will publish notice of the final decision in the Federal Register.

FOR FURTHER INFORMATION CONTACT: John Reed, Office of Engineering and Technology, (202) 418–2455, Richard Engelman, Office of Engineering and Technology, (202) 418–2445, or Michael Marcus, Office of Engineering and Technology, (202) 418–2470, or send an electronic mail message via the Internet to mmwaves@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *1st R&O*, ET Docket 94–124, FCC 95–499, adopted December 15, 1995, and released December 15, 1995. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, N.W., Room 246 or 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Summary of 1st R&O

1. On October 20, 1994, the Commission adopted a *Notice of Proposed Rule Making*, 59 FR 61304, November 30, 1994, in this proceeding. The Commission proposed to open for commercial development and use a portion of the millimeter wave frequency bands above 40 GHz. In particular, the Commission proposed to make available a total of 16 GHz of spectrum in the frequency range between 47.2 and 153 GHz on a shared basis with existing and future government users. The Commission also proposed to make available 2 GHz of spectrum in the 40.5–42.5 GHz band for non-government users.

2. In cooperation with the Department of Commerce's National Telecommunications and Information Administration (NTIA), the Commission proposed twelve frequency bands in the region of the spectrum from 47 GHz to 153 GHz for potential use by new millimeter wave technologies. The frequency bands are: 47.2–48.2 GHz, 59.0–64.0 GHz, 71.0–72.0 GHz, 76.0–77.0 GHz, 84.0–85.0 GHz, 94.7–95.7 GHz, 103.0–104.0 GHz, 116.0–117.0 GHz, 122.0–123.0 GHz, 126.0–127.0 GHz, 139.0–140.0 GHz, and 152.0–153.0 GHz. The Commission also proposed to designate three millimeter wave bands, as well as part of a fourth band, for use by vehicular radar systems. These bands are: 47.2–47.4 GHz, 76.0–77.0 GHz, 94–7–95.7 GHz and 139.0–140.0 GHz.

3. This 1st R&O makes available a total of 6.2 GHz of spectrum in the 46.7–46.9 GHz, 59–64 GHz, and 76–77 GHz bands for unlicensed devices. These new frequency bands and associated standards will permit the development of vehicle radar systems that could be used in conjunction with Intelligent Transportation Systems (ITS) and short-range, high capacity wireless radio systems that could be used for educational and medical applications, wireless access to libraries or other information databases. Based on comments filed in this proceeding, the Commission believes that the frequency band 46.7–46.9 GHz would be a better choice for vehicle radar operations in this region of the spectrum than our original proposal of 47.2–47.4 GHz. The use of this frequency band for vehicle radar systems addresses the concerns of Telecommunications Industry Association (TIA) and others, and will provide additional flexibility in our decisions regarding licensed operations. Therefore, we are making the 46.7–46.9 GHz and 76–77 GHz bands available for vehicle radar systems. We are also making the 59–64 GHz band available for use by general unlicensed devices under Part 15 of our rules. Our decision is primarily motivated by the physical characteristics of the spectrum and widespread support for this aspect of our rule. We believe that licensing is not necessary because of the limited potential for interference due to oxygen absorption and the narrow beamwidth of point-to-point antennas likely to be operating in this range. Moreover, we believe that by providing a full 5 GHz bandwidth we will be making the spectrum more attractive for novel broadband applications such as wireless computer-to-computer communications.

List of Subjects

47 CFR Part 2

Communications equipment, Radio.

47 CFR Part 15

Communications equipment, Highway safety, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rules Changes

Title 47 of the Code of Federal Regulations, Parts 2 and 15, are amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for Part 2 continues to read as follows:

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303, and 307, unless otherwise noted.

2. Section 2.106, the Table of Frequency Allocations, is amended by revising the frequency bands 43.5–47.0 GHz, 59–64 GHz, 76–81 GHz, to read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

International table			United States table		FCC use designators	
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation GHz	Allocation GHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
*	*	*	*	*	*	*
43.5–45.5 MOBILE 902 MOBILE-SATELLITE RADIO-NAVIGATION RADIO-NAVIGATION-SATELLITE 903	43.5–45.5 MOBILE 902 MOBILE-SATELLITE RADIO-NAVIGATION RADIO-NAVIGATION-SATELLITE 903	43.5–45.5 MOBILE 902 MOBILE-SATELLITE RADIO-NAVIGATION RADIO-NAVIGATION-SATELLITE 903	43.5–45.5 FIXED-SATELLITE (Earth-to-space) MOBILE-SATELLITE (Earth-to-space) G117	43.5–45.5		
45.5–47.0 MOBILE 902 MOBILE-SATELLITE RADIO-NAVIGATION RADIO-NAVIGATION-SATELLITE	45.5–47.0 MOBILE 902 MOBILE-SATELLITE RADIO-NAVIGATION RADIO-NAVIGATION-SATELLITE	45.5–47.0 MOBILE 902 MOBILE-SATELLITE RADIO-NAVIGATION RADIO-NAVIGATION-SATELLITE	45.5–47.0 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO-NAVIGATION-SATELLITE	45.5–47.0 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIO-NAVIGATION-SATELLITE	RADIO FREQUENCY DEVICES (15)	
903	903	903	903	903		
*	*	*	*	*	*	*
59–64 FIXED INTER-SATELLITE MOBILE 909 RADIOLOCATION 910	59–64 FIXED INTER-SATELLITE MOBILE 909 RADIOLOCATION	59–64 FIXED INTER-SATELLITE MOBILE 909 RADIOLOCATION	59–64 FIXED INTER-SATELLITE MOBILE 909 RADIOLOCATION	59–64 FIXED INTER-SATELLITE MOBILE 909 RADIOLOCATION	Radio frequency devices (15)	61.25 GHz±250 MHz: Industrial, scientific and medical frequency
911	911	911	911	911		

International table			United States table		FCC use designators	
Region 1—allocation GHz	Region 2—allocation GHz	Region 3—allocation GHz	Government	Non-Government	Rule part(s)	Special-use frequencies
			Allocation GHz	Allocation GHz		
(1)	(2)	(3)	(4)	(5)	(6)	(7)
*	*	*	*	*	*	*
76–77 RADIOLOCATION	76–77 RADIOLOCATION	76–77 RADIOLOCATION	76–77 RADIOLOCATION	76–77 RADIOLOCATION	RADIO FREQUENCY DEVICES (15)	
Amateur Amateur-Satellite Space Research (space-to-Earth)	Amateur Amateur-Satellite Space Research (space-to-Earth)	Amateur Amateur-Satellite Space Research (space-to-Earth)		Amateur		
77–81 RADIOLOCATION Amateur Amateur-Satellite Space Research (space-to-Earth)	77–81 RADIOLOCATION Amateur Amateur-Satellite Space Research (space-to-Earth)	77–81 RADIOLOCATION Amateur Amateur-Satellite Space Research (space-to-Earth)	77–81	77–81 RADIOLOCATION Amateur Amateur-Satellite	Amateur (97)	
			912	912		

* * * * *

3. Section 2.997 is revised to read as follows:

§ 2.997 Frequency spectrum to be investigated.

(a) In all of the measurements set forth in §§ 2.991 and 2.993, the spectrum shall be investigated from the lowest radio frequency signal generated in the equipment, without going below 9 kHz, up to at least the frequency shown below:

(1) If the equipment operates below 10 GHz: to the tenth harmonic of the highest fundamental frequency or to 40 GHz, whichever is lower.

(2) If the equipment operates at or above 10 GHz and below 30 GHz: to the fifth harmonic of the highest fundamental frequency or to 100 GHz, whichever is lower.

(3) If the equipment operates at or above 30 GHz: to the fifth harmonic of the highest fundamental frequency or to 200 GHz, whichever is lower.

(b) Particular attention should be paid to harmonics and subharmonics of the carrier frequency as well as to those frequencies removed from the carrier by multiples of the oscillator frequency. Radiation at the frequencies of multiplier stages should also be checked.

(c) The amplitude of spurious emissions which are attenuated more than 20 dB below the permissible value need not be reported.

(d) Unless otherwise specified, measurements above 40 GHz shall be performed using a minimum resolution bandwidth of 1 MHz.

PART 15—RADIO FREQUENCY DEVICES

1. The authority citation for Part 15 continues to read as follows:

Authority: Secs. 4, 302, 303, 304, 307, and 624A of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303, 304, 307, and 544A.

2. Section 15.31 is amended by revising paragraph (f)(1) to read as follows:

§ 15.31 Measurement standards.

* * * * *

(f) * * *

(1) At frequencies equal to or above 30 MHz, measurements may be performed at a distance other than what is specified provided: measurements are not made in the near field; and, it can be demonstrated that the signal levels needed to be measured at the distance employed can be detected by the measurement equipment. Measurements shall not be performed at a distance greater than 30 meters unless it can be further demonstrated that measurements at a distance of 30 meters or less are impractical. When performing measurements at a distance other than what is specified, the results shall be extrapolated to the specified distance using one of the following formulas: for measurements above 30 MHz but below 40 GHz, an inverse linear-distance extrapolation factor (20 dB/decade); for measurements above 40 GHz, an inverse linear-distance-squared extrapolation factor (40 dB/decade).

* * * * *

3. Section 15.33 is amended by revising paragraph (a) to read as follows:

§ 15.33 Frequency range of radiated measurements.

(a) For an intentional radiator, the spectrum shall be investigated from the lowest radio frequency signal generated in the device, without going below 9 kHz, up to at least the frequency shown in this paragraph:

(1) If the intentional radiator operates below 10 GHz: to the tenth harmonic of the highest fundamental frequency or to 40 GHz, whichever is lower.

(2) If the intentional radiator operates at or above 10 GHz and below 30 GHz: to the fifth harmonic of the highest fundamental frequency or to 100 GHz, whichever is lower.

(3) If the intentional radiator operates at or above 30 GHz: to the fifth harmonic of the highest fundamental frequency or to 200 GHz, whichever is lower.

(4) If the intentional radiator contains a digital device, regardless of whether this digital device controls the functions of the intentional radiator or the digital device is used for additional control or function purposes other than to enable the operation of the intentional radiator, the frequency range shall be investigated up to the range specified in paragraphs (a)(1) through (a)(3) of this section or the range applicable to the digital device, as shown in paragraph (b)(1) of this section, whichever is the higher frequency range of investigation.

* * * * *

4. Section 15.35 is amended by revising paragraph (b) to read as follows:

§ 15.35 Measurement detector functions and bandwidths.

* * * * *

(b) On any frequency or frequencies above 1000 MHz, unless otherwise

stated, the radiated limits shown are based on the use of measurement instrumentation employing an average detector function. When average radiated emission measurements are specified in the regulations, including emission measurements below 1000 MHz, there is also a limit on the radio frequency emissions, as measured using instrumentation with a peak detector function, corresponding to 20 dB above the maximum permitted average limit for the frequency being investigated. Unless otherwise specified, measurements above 1000 MHz shall be performed using a minimum resolution bandwidth of 1 MHz. Measurements of AC power line conducted emissions are performed using a CISPR quasi-peak detector, even for devices for which average radiated emission measurements are specified.

* * * * *

5. Section 15.205 is amended by adding a new paragraph (d)(4) to read as follows:

§ 15.205 Restricted bands of operation.

* * * * *

(d) * * *

(4) Any equipment operated under the provisions of § 15.253 or § 15.255.

* * * * *

6. A new § 15.253 is added to Subpart C to read as follows:

§ 15.253 Operation within the bands 46.7–46.9 GHz and 76.0–77.0 GHz.

(a) Operation within the bands 46.7–46.9 GHz and 76.0–77.0 GHz is restricted to vehicle-mounted field disturbance sensors used as vehicle radar systems. The transmission of additional information, such as data, is permitted provided the primary mode of operation is as a vehicle-mounted field disturbance sensor. Operation under the provisions of this section is not permitted on aircraft or satellites.

(b) The radiated emission limits within the bands 46.7–46.9 GHz and 76.0–77.0 GHz are as follows:

(1) If the vehicle is not in motion, the power density of any emission within the bands specified in this section shall not exceed 200 nW/cm ^{2} at a distance of 3 meters from the exterior surface of the radiating structure.

(2) For forward-looking vehicle-mounted field disturbance sensors, if the vehicle is in motion the power density of any emission within the bands specified in this section shall not exceed 60 μW/cm ^{2} at a distance of 3 meters from the exterior surface of the radiating structure.

(3) For side-looking or rear-looking vehicle-mounted field disturbance sensors, if the vehicle is in motion the power density of any emission within the bands specified in this section shall not exceed 30 μW/cm ^{2} at a distance of 3 meters from the exterior surface of the radiating structure.

(c) The power density of any emissions outside the operating band shall consist solely of spurious emissions and shall not exceed the following:

(1) For vehicle-mounted field disturbance sensors operating in the band 46.7–46.9 GHz: 2 pW/cm ^{2} at a distance of 3 meters from the exterior surface of the radiating structure.

(2) For forward-looking vehicle-mounted field disturbance sensors operating in the band 76–77 GHz: 600 pW/cm ^{2} at a distance of 3 meters from the exterior surface of the radiating structure.

(3) For side-looking or rear-looking vehicle-mounted field disturbance sensors operating in the band 76–77 GHz: 300 pW/cm ^{2} at a distance of 3 meters from the exterior surface of the radiating structure.

(4) Radiated emissions below 40 GHz shall not exceed the general limits in § 15.209.

(d) The provisions in § 15.35 limiting peak emissions apply.

(e) Fundamental emissions must be contained within the frequency bands specified in this section during all conditions of operation. Equipment is presumed to operate over the temperature range −20 to +50 degrees celsius with an input voltage variation of 85% to 115% of rated input voltage, unless justification is presented to demonstrate otherwise.

(f) Regardless of the power density levels permitted under this section, devices operating under the provisions of this section must comply with the requirements of the RF safety standards specified in § 1.1307(b) of this chapter. Compliance with these standards for the fundamental emissions and the unwanted emissions must be demonstrated in the application for certification.

7. A new § 15.255 is added to Subpart C and suspended to read as follows:

§ 15.255 Operation within the band 59.0–64.0 GHz.

(a) Operation under the provisions of this section is not permitted for field disturbance sensors, including vehicle radar systems, nor is the operation of this equipment permitted on aircraft or satellites.

(b) Within the 59.0–64.0 GHz band, the power density of any emission shall not exceed 9 μW/cm ^{2} at a distance of 3 meters.

(c) The power density of any emissions outside the 59.0–64.0 GHz band shall consist solely of spurious emissions and shall not exceed 90 pW/cm ^{2} at a distance of 3 meters. The levels of the spurious emissions shall not exceed the level of the fundamental emission.

(d) Radiated emissions below 40 GHz shall not exceed the general limits in § 15.209.

(e) The provisions in § 15.35 limiting peak emissions apply.

(f) Fundamental emissions must be contained within the frequency bands specified in this section during all conditions of operation. Equipment is presumed to operate over the temperature range −20 to +50 degrees celsius with an input voltage variation of 85% to 115% of rated input voltage, unless justification is presented to demonstrate otherwise.

(g) Regardless of the power density levels permitted under this section, devices operating under the provisions of this section must comply with the requirements of the RF safety standards specified in § 1.1307(b) of this chapter. Compliance with these standards for the fundamental emissions and the unwanted emissions must be demonstrated in the application for certification. The use of professional installation to install the equipment is not sufficient to provide this demonstration.

[FR Doc. 96–7689 Filed 4–1–96; 8:45 am]
BILLING CODE 6712–01–P

47 CFR Part 73

[MM Docket No. 95–169; RM–8722]

Radio Broadcasting Services; Machias, ME

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 266B to Machias, Maine, in response to a request from Dr. James Whalen. *See* 60 FR 62061, December 4, 1995. The coordinates for Channel 266B are 44–45–22 and 67–36–50. There is a site restriction 12.8 kilometers (7.9 miles) west of the community. Canadian concurrence has been obtained for this allotment. With this action, this proceeding is terminated.

DATES: Effective May 10, 1996. The window period for filing applications will open on May 10, 1996, and close on June 10, 1996.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MM Docket No. 95–169, adopted March 15, 1996, and released March 26, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: Secs. 303, 48 Stat., as amended, 1082; 47 U.S.C. 154, as amended.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Maine, is amended by adding Channel 266B at Machias.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 96–7891 Filed 4–1–96; 8:45 am]

BILLING CODE 6712–01–F

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1516 and 1552

[FRL–5449–9]

Acquisition Regulation; Cost-Sharing Contracts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document adds coverage to the EPA Acquisition Regulation (EPAAR) on cost-sharing contracts. This rule is necessary to provide Contracting Officers guidance for awarding and administering cost-sharing contracts.

EFFECTIVE DATE: April 17, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Schaffer at (202) 260–9032, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 (Mail Code 3802F).

SUPPLEMENTARY INFORMATION:

A. Background

Cost-sharing applies only to contracts awarded by EPA in which the Government and contractor agree to share in the costs of a project. Cost-sharing is relevant when a contractor has the opportunity to acquire technology, expertise or other benefits which will enable the contractor to profit after contract completion. Generally, potential benefits to the contractor are less likely where basic research is involved and the extent of commercial application is unknown.

A proposed rule was published in the Federal Register for public comment on August 17, 1995 (60 FR 42828). No comments were received.

B. Executive Order 12866

This rule is not a significant regulatory action as defined in Executive Order 12866. Therefore, no review is required at the Office of Information and Regulatory Affairs within OMB.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not propose any information collection requirements which would require the approval of OMB under 44 U.S.C. 3501, et seq.

D. Regulatory Flexibility Act

The EPA certifies this rule does not exert a significant economic impact on a substantial number of small entities. The rule primarily establishes EPA policies and internal procedures for awarding and administering cost sharing contracts. The contract clause will require small entities to maintain records for costs claimed as its cost share.

Most small entities should presently be compiling information in their accounting systems for all costs incurred under cost reimbursable contracts in order to monitor financial progress under a contract. Any adjustments to existing accounting systems should require only minimal cost and effort. The EPA certifies this rule will have no significant impact on small entities. Therefore, no regulatory flexibility analysis has been prepared.

E. Unfunded Mandates

This rule will not impose unfunded mandates on state or local entities, or others.

List of Subjects in 48 CFR Parts 1516 and 1552

Government procurement, Solicitation provisions and contract clauses.

For the reasons set out in the preamble, Chapter 15 of Title 48 Code of Federal Regulations is amended as set forth below:

1. The authority citation for Parts 1516 and 1552 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

2. Section 1516.303 is added to read as follows:

1516.303 Cost-sharing contracts.

1516.303–71 Definition.

Cost-sharing is a generic term denoting any situation where the Government does not fully reimburse a contractor for all allowable costs necessary to accomplish the project under the contract. This term encompasses cost-matching and cost-limitations, in addition to cost-sharing. Cost-sharing does not include usual contractual limitations such as indirect cost ceilings in accordance with FAR 42.707, or ceilings on travel or other direct costs. Cost-sharing contracts may be required as a result of Congressional mandate.

1516.303–72 Policy.

(a) The Agency shall use cost-sharing contracts where the principal purpose is ultimate commercialization and utilization of technologies by the private sector. There should also be a reasonable expectation of future economic benefits for the contractor and the Government beyond the Government's contract.

(b) Cost-sharing may be accomplished by a contribution to either direct or indirect costs, provided such costs are reasonable, allocable and allowable in accordance with the cost principles of the contract. Allowable costs which are absorbed by the contractor as its share of contract costs may not be charged directly or indirectly to the Agency or the Federal Government.

(c) Unsolicited proposals will be considered on a case-by-case basis by the Contracting Officer as to the appropriateness of cost-sharing.

1516.303–73 Types of cost-sharing.

(a) Cost-sharing may be accomplished in various forms or combinations. These include, but are not limited to: cash outlays, real property or interest therein, personal property or services, cost matching, or other in-kind contributions.

(b) In-kind contributions represent non-cash contributions provided by the performing contractor which would normally be a charge against the contract. While in-kind contributions are an acceptable method of cost-sharing, should the booked costs of property appear unrealistic, the fair market value of the property shall be determined pursuant to 1516.303–74 of this chapter.

(c) In-kind contributions may be in the form of personal property (equipment or supplies) or services which are directly beneficial, specifically identifiable and necessary for the performance of the contract. In-kind contributions must meet all of the following criteria before acceptance.

(1) Be verifiable from the contractor's books and records;

(2) Not be included as contributions under any other Federal contract;

(3) Be necessary to accomplish project objectives;

(4) Provide for types of charges that would otherwise be allowable under applicable Federal cost principles appropriate to the contractor's organization; and

(5) Not be paid for by the Federal Government under any contract, agreement or grant.

1516.303–74 Determining the Value of In-Kind Contributions.

In-kind contributions accepted from a contractor will be addressed on a case-by-case basis provided the established values do not exceed fair market values.

(a) Where the Agency receives title to donated land, building, equipment or supplies and the property is not fully consumed during performance of the contract, the Contracting Officer should establish the property's value based on the contractor's booked costs (i.e., acquisition cost less depreciation, if any) at the time of donation. If the booked costs reflect unrealistic values when compared to current market conditions, the Contracting Officer may establish another appropriate value if supported by an independent appraisal of the fair market value of the donated property or property in similar condition and circumstances.

(b) The Contracting Officer will monitor reports of in-kind costs as they are incurred or recognized during the contract period of performance to determine that the value of in-kind services does not exceed fair market values.

(c) The value of any services or the use of personal or real property donated by a contractor should be established when necessary in accordance with generally accepted accounting policies and Federal cost principles.

1516.303–75 Amount of Cost-Sharing.

(a) Contractors should contribute a reasonable amount of the total project cost covered under the contract. The ratio of cost participation should correlate to the apparent advantages available to performers and the proximity of implementing commercialization, i.e., the higher the potential for future profits, the higher the contractor's share should be.

(b) Fee will not be paid to the contractor or any member of the contractor team (subcontractors and consultants) which has a substantial and direct interest in the contract, or is in a position to gain long term benefits from the contract. A vulnerability the Contracting Officer should consider in reviewing a prime contractor's request for consent to subcontract is whether subcontractors under prime cost-sharing contracts have a significant direct interest in the contract to gain long-term benefits from the contract.

(c) The Contracting Officer, with the input of technical experts, may consider the following factors in determining reasonable levels of cost sharing:

(1) The availability of the technology to competitors;

(2) Improvements in the contractor's market share position;

(3) The time and risk necessary to achieve success;

(4) If the results of the project involve patent rights which could be sold or licensed;

(5) If the contractor has non-Federal sources of funds to include as cost participation; and

(6) If the contractor has the production and other capabilities to capitalize the results of the project.

(d) A contractor's cost participation can be provided by other subcontractors with which it has contractual arrangements to perform the contract as long as the contractor's cost-sharing goal is met.

1516.303–76 Fee on cost-sharing contracts by subcontractors.

(a) Subcontractors under prime cost-sharing contracts who do not have a significant direct interest in the contract or who are not in a position to gain long-term benefits from the contract may earn a fee.

(b) Contracting Officers should be alert to a potential vulnerability for the Government under cost-sharing contracts when evaluating proposed subcontractors or consenting to a subcontract during contract administration, where the subcontractor is a wholly-owned subsidiary of the prime. The vulnerability consists of the subsidiary earning a large amount of fee, which could be returned to the prime through stock dividends or other intercompany transactions. This could circumvent the objective of a cost-sharing contract.

1516.303–77 Administrative requirements.

(a) The initial Procurement Request shall reflect the total estimated cost of the cost-sharing contract. The face page of the contract award shall indicate the total estimated cost of the contract, the Contractor's share of the cost, and the Government's share of the cost.

(b) The manner of cost-sharing and how it is to be accomplished shall be set forth in the contract. Additionally, contracts which provide for cost-sharing shall require the contractor to maintain records adequate to reflect the nature and extent of their cost-sharing as well as those costs charged the Agency. Such records may be subject to an Agency audit.

3. Section 1516.307 is amended to add paragraph (c) to read as follows:

1516.307 Contract clauses.

* * * * *

(c) The Contracting Officer shall insert a clause substantially the same as 48 CFR 1552.216–75, Estimated Cost and Cost-Sharing, in solicitations and contracts where the total incurred costs are shared by the contractor on a straight percentage basis. The Contracting Officer may develop other clauses, as appropriate, following the same approach, but reflecting different cost-sharing arrangements negotiated on specific contract actions.

4. Subpart 1516.3 is amended by adding Section 1516.370 to read as follows:

1516.370 Solicitation provision.

The solicitation document shall state whether any cost-sharing is required, and may set forth a target level of cost-sharing. Although technical considerations are normally most important, the degree of cost-sharing may be considered in a selection decision when cost becomes a determinative factor in a selection decision.

5. Part 1552 is amended to add Section 1552.216–76 to read as follows:

1552.216–76 Estimated Cost and Cost-Sharing.

As prescribed in 1516.307(c), insert the following clause:

Estimated Cost and Cost-Sharing (Apr. 1996)

(a) The total estimated cost of performing the work under this contract is $_____. The Contractor's share of this cost shall not

exceed $_____. The Government's share of this cost shall not exceed $_____.

(b) For performance of the work under the contract, the Contractor shall be reimbursed for not more than _____ percent of the cost of performance determined to be allowable under the Allowable Cost and Payment clause. The remaining balance of allowable cost shall constitute the Contractor's share.

(c) Fee shall not be paid to the prime contractor under this cost-sharing contract.

(d) The Contractor shall maintain records of all costs incurred and claimed for reimbursement as well as any other costs claimed as part of its cost share. Those records shall be subject to audit by the Government.

(e) Costs contributed by the Contractor shall not be charged to the Government under any other contract, grant or agreement (including allocation to other contracts as part of an independent research and development program) nor be included as contributions under any other Federal contract.

(End of Clause)

Dated: March 11, 1996.

Betty L. Bailey,

Director, Office of Acquisition Management.

[FR Doc. 96–7747 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

48 CFR Parts 1523 and 1552

[FRL–5448–6]

Acquisition Regulation; Energy-Efficient Computer Equipment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document adds coverage to the EPA Acquisition Regulation (EPAAR) on energy-efficient computer equipment. This final rule is necessary for ensuring that all purchases of microcomputers, including personal computers, monitors, and printers meet ''EPA Energy Star'' requirements for energy efficiency, unless exempted.

EFFECTIVE DATE: April 17, 1996.

FOR FURTHER INFORMATION CONTACT: Paul Schaffer at (202) 260–9032, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (Mail Code 3802F).

SUPPLEMENTARY INFORMATION:

A. Background

Executive Order 12845 (April 23, 1993) requires the Federal Government to purchase only microcomputers, including personal computers, monitors and printers, which meet ''EPA Energy Star'' requirements for energy efficiency.

A proposed rule was published in the Federal Register on July 25, 1995 (60 FR 37982). No public comments were received.

B. Executive Order 12866

This rule is not a significant regulatory action as defined in Executive Order 12866. Therefore no review is required at the Office of Information and Regulatory Affairs within OMB.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this rule does not propose any information collection requirements which would require the approval of OMB under 44 U.S.C. 3501, et seq.

D. Regulatory Flexibility Act

The EPA certifies this rule does not exert a significant economic impact on a substantial number of small entities. The rule establishes EPA policy for purchasing microcomputers, including personal computers, monitors, and printers which must meet ''EPA Energy Star'' requirements for energy efficiency. The ''Energy Star Program'' is a voluntary partnership effort with the computer industry, which includes small entities, to promote the introduction of energy-efficient personal computers, monitors, and printers which can reduce air pollution caused by utility power generation. The ''Energy Star Program'' has no barriers to entry for small entities to procure or develop the necessary technology or components to manufacture Energy Star compliant computers, monitors and printers. Therefore, no regulatory flexibility analysis has been prepared.

E. Unfunded Mandates

This rule will not impose unfunded mandates on state or local entities or others.

List of Subjects in 48 CFR Parts 1523 and 1552

Environmental Conservation, Environmental Safety, Government procurement, Solicitation provisions and contract clauses.

For the reasons set out in the preamble, Chapter 15 of Title 48 Code of Federal Regulations is amended as set forth below:

1. The authority citation for Parts 1523 and 1552 continues to read as follows:

Authority: Sec 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1a. The heading for part 1523 is revised to read as follows:

PART 1523—ENVIRONMENT, CONSERVATION, OCCUPATIONAL SAFETY, AND DRUG-FREE WORKPLACE.

2. Subpart 1523.70 is added to read as follows:

Subpart 1523.70—Energy-Efficient Computer Equipment

1523.7000 Background.

(a) Executive Order 12845 requires the Federal Government to purchase only microcomputers, including personal computers, monitors and printers, which meet ''EPA Energy Star'' requirements for energy efficiency. This equipment is often identified by the Energy Star™ logo and is capable of entering and recovering from an energy-efficient low power state.

(b) The EPA Energy Star Computer Program is a voluntary partnership effort with the computer industry to promote the introduction of energy-efficient personal computers, monitors, and printers which can reduce air pollution caused by utility power generation, and ease the burden on building air conditioning and electrical systems. The Energy Star Program is designed to be a self-certifying computer industry program, policed informally by the computer industry itself.

(c) FIRMR Bulletin C–35 (dated 11/19/93) describes procedures that will promote the acquisition of energy-efficient microcomputers and associated computer equipment.

1523.7001 Policy.

(a) The ''Energy Star'' Executive Order (E.O. 12845) applies to the following equipment:

(1) Personal Computers (stand-alone).

(2) Personal Computers (end-user on network).

(3) Notebook and other portable computers.

(4) PC printers - laser, inkjet or dot matrix (stand-alone or networked).

(5) High-speed printers used on a PC network (less than approximately 20 pages per minute).

(6) Monitors (CRT or Flat-panel LCD).

(b) ''Energy Star'' requirements do not apply to the following equipment:

(1) Workstations.

(2) File servers.

(3) Mainframe equipment.

(4) Minicomputers.

(5) High-speed printers used with mainframe computers (30 or more pages per minute).

(6) Mainframe or ''dumb'' terminals.

(7) X-terminals.

(c) All new acquisitions for microcomputers, including personal computers, monitors, and printers, shall

contain specifications which meet EPA Energy Star requirements for energy efficiency unless a waiver has been obtained in accordance with internal Agency procedures. The EPA Energy Star requirement applies in instances where the Contracting Officer authorizes the contractor to acquire property in accordance with FAR 45.302–1.

(d) The Energy Star requirement also applies to all applicable equipment ordered from GSA Schedule Contracts, open market buys, and Bankcard purchases.

1523.7002 Waivers.

(a) There are several types of computer equipment which technically fall under the current Energy Star Program, but for which EPA established blanket waivers because Energy Star compliant versions of this equipment were unavailable in the marketplace. Blanket waivers apply to the following types of equipment:

(1) LAN servers, including file servers; application servers; communication servers; including bridges and routers;

(2) UNIX RISC based processors with their high-end monitors;

(3) Large LAN printers (greater than 19 pages/minute output); and

(4) Scientific computing equipment which is used for real-time data acquisition and which, if subjected to a power down mode, would jeopardize the research project.

(b) It is anticipated that there will be Energy Star models of this equipment in the future, but in the near term EPA will not specify Energy Star qualifications when purchasing the items listed in this section.

1523.7003 Contract clause.

The Contracting Officer shall insert a clause substantially the same as 48 CFR 1552.239–103, Acquisition of Energy Star Compliant Microcomputers, Including Personal Computers, Monitors, and Printers, in all solicitations and contracts for the acquisition of microcomputers, including personal computers, monitors and printers. The Contracting Officer shall also insert the clause in solicitations and contracts where the Contracting Officer authorizes the contractor to acquire property in accordance with FAR 45.302–1.

3. Section 1552.239–103 is added to read as follows:

1552.239–103 Acquisition of Energy Star Compliant Microcomputers, Including Personal Computers, Monitors and Printers.

As prescribed in 1523.7003, insert the following clause:

ACQUISITION OF ENERGY STAR COMPLIANT MICROCOMPUTERS, INCLUDING PERSONAL COMPUTERS, MONITORS, AND PRINTERS

(APRIL 1996)

(a) The Contractor shall provide computer products that meet EPA Energy Star requirements for energy efficiency. By acceptance of this contract, the Contractor certifies that all microcomputers, including personal computers, monitors, and printers to be provided under this contract meet EPA Energy Star requirements for energy efficiency.

(b) The Contractor shall ship all products with the standby feature activated or enabled.

(c) The Contractor shall provide models that have equivalent functionality to similar non-power managed models. This functionality should include as a minimum:

(1) The ability to run commercial off-the-shelf software both before and after recovery from a low power state, including retention of files opened (with no loss of data) before the power management feature was activated.

(2) If equipment will be used on a local area network (LAN), the contractor shall provide equipment that is fully compatible with network environments, e.g., personal computers resting in a low-power state should not be disconnected from the network.

(d) The contractor shall provide monitors that are capable of being powered down when connected to the accompanying personal computer.

(End of Clause)

Dated: March 18, 1996.

Betty L. Bailey,

Director, Office of Acquisition Management.

[FR Doc. 96–7749 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 538

[Docket No. 94–96; Notice 2]

RIN 2127–AF18

Manufacturing Incentives for Alternative Fuel Vehicles

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule establishes minimum driving range standards for dual energy and natural gas dual energy passenger automobiles on non-petroleum fuel and establishes gallons equivalent measurements for certain gaseous fuels. Promulgation of minimum driving range standards for these vehicles is required by the 1992 Energy Policy Act (P.L. 102–486).

DATES: These requirements are effective June 3, 1996. Petitions for reconsideration must be submitted within 45 days of publication.

ADDRESSES: Petitions for reconsideration should be submitted to the Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Ms. Henrietta L. Spinner, Motor Vehicle Requirements Division, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590, (202) 366–4802.

SUPPLEMENTARY INFORMATION:

1. Statutory Background

Section 6 of the Alternative Motor Fuels Act of 1988 (AMFA) (P.L. 100–494) amended the fuel economy provisions of the Motor Vehicle Information and Cost Savings Act (Cost Savings Act) by adding a new section, ''Manufacturing Incentives for Automobiles,'' now codified as 49 U.S.C. § 32901(c). The section provided incentives for the manufacture of vehicles designed to operate on alcohol or natural gas, including dual energy vehicles, i.e., vehicles capable of operating on one of those alternative fuels and either gasoline or diesel fuel.

Dual energy vehicles meeting specified criteria qualify for special treatment in the calculation of their fuel economy for purposes of the corporate average fuel economy (CAFE) standards issued by NHTSA under 49 U.S.C. Chapter 329. The fuel economy of a qualifying vehicle is calculated in a manner that results in a relatively high fuel economy value, thus encouraging its production as a way of facilitating a manufacturer's compliance with the CAFE standards. One of the qualifying criteria for passenger automobiles was to meet a minimum driving range, which was to be established by NHTSA.

NHTSA was required to establish two minimum driving ranges, one for dual energy (alcohol/gasoline or diesel fuel) passenger automobiles when operating on alcohol, and the other for natural gas dual energy (natural gas/gasoline or diesel fuel) passenger automobiles when operating on natural gas. In establishing the driving ranges, NHTSA was required to consider consumer acceptability, economic practicability, technology, environmental impact, safety, driveability, performance, and any other factors deemed relevant.

The Alternative Motor Fuels Act and its legislative history made clear that the driving ranges were to be low enough to

encourage the production of dual energy passenger automobiles, yet not so low that motorists would be discouraged by a low driving range from actually fueling their vehicles with the alternative fuels. Section 513(h)(2)(C) of the Cost Savings Act, now codified as 49 U.S.C. § 32901(c)(2)(B), provided that the minimum driving range established by the agency for dual energy passenger automobiles could not be less than 200 miles. Section 513(h)(2)(B) of the Cost Savings Act, now codified as 49 U.S.C. § 32901(c)(2)(A), allowed passenger automobile manufacturers to petition the agency to set a lower range for a particular model or models than the range established by the agency for all models. However, the minimum driving range could not be reduced to less than 200 miles for any model of dual energy passenger automobile.

On April 26, 1990, NHTSA published in the Federal Register (55 FR 17611) a final rule establishing 49 CFR Part 538, *Driving Ranges for Dual Energy and Natural Gas Dual Energy Passenger Automobiles.* The agency established a minimum driving range of 200 miles for dual energy passenger automobiles, and a minimum driving range of 100 miles for natural gas dual energy passenger automobiles. NHTSA did not specify higher ranges because it was concerned that such ranges could discourage manufacturers from producing dual energy vehicles, since the manufacturers would need to redesign their vehicles to accommodate additional or larger fuel tanks in order to meet the higher ranges.

In Part 538, NHTSA also established procedures by which manufacturers may petition the agency to establish a lower driving range for a specific model or models of ''natural gas dual energy'' passenger automobiles and by which the agency may grant or deny such petitions.

The Energy Policy Act of 1992 (EPACT) (P.L. 102–486) amended section 513 of the Cost Savings Act to expand the scope of the alternative fuels it promoted. In addition to the incentives for alcohol and natural gas, the amended section provided incentives for the production of vehicles using liquefied petroleum gas (LPG), hydrogen, coal derived liquid fuels, fuels (other than alcohol) derived from biological materials, electricity (including electricity from solar energy), and any fuel NHTSA determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits.

As amended, section 513 continued to provide incentives for the production of dual fuel vehicles, i.e., vehicles that operate on one of a now expanded list of alternative fuels and on gasoline or diesel fuel. NHTSA notes that some statutory terminology was changed by the 1992 amendments. Among other things, the terms ''dual energy'' and ''natural gas dual energy'' were dropped, and the terms ''alternative fueled automobile,'' ''dedicated automobile,'' and ''dual fueled automobile'' were added.

Section 513 continued to require dual fueled passenger automobiles to meet specified criteria, including meeting a minimum driving range, in order to qualify for special treatment in the calculation of their fuel economy for purposes of the CAFE standards.

One change made by the 1992 amendments concerning driving ranges was that, under section 513(h)(2), the minimum driving range set by NHTSA may not be less than 200 miles for dual fueled automobiles other than electric vehicles. The amendments also provided that the agency may not, in response to petitions from manufacturers, set an alternative range for a particular model or models that is lower than 200 miles, except for electric vehicles.

The 1992 amendments necessitate amending Part 538. First, the existing 100 mile minimum driving range for vehicles previously categorized as ''natural gas dual energy'' vehicles must be raised to at least 200 miles. Also, NHTSA must establish a minimum driving range for the expanded scope of dual fueled vehicles. Part 538's petition procedures also need to be amended to conform to the new statutory provisions.

In addition to necessitating amendments to Part 538's driving range provisions, the 1992 amendments require NHTSA to ''determine the appropriate gallons equivalent measurement for gaseous fuels other than natural gas * * * '' Such a measurement is needed to carry out the special fuel economy calculations that apply to alternative fuel vehicles.

The Motor Vehicle and Cost Savings Act was rescinded in 1994 through legislation (P.L. 103–272) recodifying the Cost Savings Act in Chapter 329 ''Automobile Fuel Economy'' of Title 49 of the United States Code (49 U.S.C. § 32901 et. seq.) This recodification adopted the provisions of the Cost Savings Act without substantive change, inluding those amendments contained in the 1992 Energy Policy Act.

2. Regulatory Background

NHTSA published a notice of proposed rulemaking (NPRM) on December 19, 1994 (59 FR 65295) which proposed setting the minimum driving range for all dual fueled passenger automobiles other than electric vehicles at 200 miles. In that notice, NHTSA also proposed removing the petition procedures until it sets a minimum driving range for electric dual fueled passenger automobiles.

The NPRM stated that the complexity of the issues relating to establishment of a minimum driving range for electric dual fueled passenger automobiles, otherwise known as hybrid electric vehicles, required NHTSA to address that issue in a separate rulemaking. On September 22, 1994, NHTSA published in the Federal Register (59 FR 48589) a request for comments seeking information that would help it develop a proposal in that area.

The NPRM also proposed to amend Part 538's gallons equivalent measurements for compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen, and hythane.

As part of determining appropriate gallons equivalent measurements for gaseous fuels, NHTSA consulted with the Department of Energy (DOE) Fuels Utilization Data and Analysis Division. NHTSA and DOE agreed that the following gaseous fuels could be potential transportation fuels by 2008: liquefied natural gas, liquefied petroleum gas and hydrogen.

Pursuant to a contract with DOE, Abacus Technology Corporation prepared a report titled ''Energy Equivalent Values of Three Alternative Fuels: Liquefied Natural Gas, Liquefied Petroleum Gas, and Hydrogen.'' This report is available for review at the docket number cited in the heading of this notice. The Abacus report develops gallons equivalent measurements for LNG, LPG, and hydrogen gaseous fuels.

After reviewing the Abacus report, the Environmental Protection Agency (EPA) Office of Mobile Sources recommended adding hythane fuel (a mixture of hydrogen and natural gas (principally methane)) as a gaseous fuel for which a gallon equivalent should be calculated. EPA stated that although hythane is currently being used and evaluated on a limited basis, there is a possibility that hythane fuel may become commercially available as a gaseous fuel. In a follow-up report, which is also available in the docket, Abacus developed an appropriate gallon equivalent measurement for hythane.

3. Dual Energy Driving Range Requirements

NHTSA received comments regarding the driving range proposed in the NPRM from Minnegasco, Taylor-Wharton, the American Automobile Manufacturers Association (AAMA), the Southern

California Gas Company (the Gas Company), and the American Gas Association/Natural Gas Vehicle Coalition (AGA/NGV).

Minnegasco, a natural gas utility, is concerned about the increase of the minimum driving range for natural gas dual fueled vehicle because a large share of the fleet vehicles in its territory do not need a 200 mile range. Minnegasco also stated its concerns that the size of the tanks required to achieve a 200 mile range in compressed natural gas vehicles would require significant and costly vehicle modifications. The company believes that requiring a 200 mile or greater range would discourage the production of natural gas dual fueled vehicles.

Taylor-Wharton, a manufacturer of gas equipment, indicated that a minimum driving range of 200 miles would be detrimental to the compressed natural gas industry. Taylor-Wharton is concerned that setting the minimum driving range above 100 miles for CNG dual fueled vehicles would require the installation of two CNG fuel tanks, causing increased weight and cost. Taylor-Wharton also believes that by increasing the range, certain safe and cost effective CNG fuel tanks would be eliminated from the market. This will also decrease the CNG fuel tank competition and, therefore, increase fuel tank costs. Taylor-Wharton indicated that, in the future, a minimum driving range should not be mandated for fleet vehicles, since these vehicles do not require traveling long distances, and these vehicles' bases are equipped with refueling infrastructure.

The American Automobile Manufacturers Association (AAMA) believes that the minimum driving requirement of 200 miles is too stringent for natural gas vehicles but achievable for LPG and alcohol dual fueled vehicles. The AAMA further discussed the uniqueness of natural gas and the marketability and productivity of alternative vehicles. AAMA contended that natural gas stored at 3,000 pounds per square inch (psi) requires roughly four times the storage space to achieve a driving range equivalent to gasoline vehicles. Further, because natural gas is stored in cylinders that present greater challenges for installation than gasoline tanks, less than optimum usage of space is achieved.

AAMA believes that the market for alternative fuel vehicles (AFVs) remains limited. AAMA stated that in 1995 the purchases by mandated federal fleets would result in less than 15,000 AFV sales or conversions, and in 1999 and later, an estimated 40,000 units. AAMA also noted that market growth remains uncertain, as do implementation of further mandates under the Energy Policy Act of 1992. AAMA stated that even though incentives, such as CAFE credits for AFVs, help offset the cost of product programs, a 200 mile minimum driving range may remove this support factor for most dual fueled natural gas automobiles.

Southern California Gas Company (the Gas Company) indicated that it believed the minimum driving range for dual-fueled natural gas vehicles should not be raised above 200 miles. The Gas Company believes that use of the congressionally-mandated minimum will allow for the participation of the greatest number of natural gas vehicles.

The American Gas Association and the Natural Gas Vehicle Coalition submitted joint comments (AGA/NGV). AGA/NGV believe that the increased driving range requirement of 200 miles will act as a disincentive for manufacturers to produce natural gas vehicles. AGA/NGV contends that a 200 mile minimum driving range would increase vehicle costs by necessitating additional and/or larger storage cylinders on natural gas vehicles, which could require structural changes and possibly separate safety testing. In their comments, the AGA/NGV stated that the natural gas vehicle industry is conducting research to expand fuel storage capacity without increasing weight or limiting storage space on these vehicles; however, these cylinders cost more and require more space than steel cylinders. They also observed that most natural gas vehicles will be owned and operated by large fleets. Fleet vehicles typically are refueled daily at a single location. Thus, a limited driving range does not serve as a major disincentive for these operators. AGA/NGV also commented that natural gas is more widely available and the need for dual fueled NGVs use of gasoline is decreasing rapidly. For these reasons, the intent of the statute—to ensure fueling on natural gas—is not likely to be subverted if NHTSA maintains the minimum driving range at 100 miles.

AGA/NGV believes that the congressional history associated with the 1992 amendment to Section 513(h)(2) does not demonstrate an intention on the part of Congress to change the status of the manufacturing incentives for natural gas vehicles and urged NHTSA not to increase the requirements to 200 miles.

Two commenters, AAMA and AGA/NGV, believe that the minimum driving range of 200 miles for natural gas dual fueled vehicles is too stringent. Therefore, these vehicles should be allowed to maintain a 100-mile driving range. Taylor-Wharton and Minnegasco agreed that 200 miles would serve as a disincentive to the natural gas industry. Taylor-Wharton's argument focused on the limited space availability in these natural gas dual fueled vehicles and the increased cost and safety concerns for these vehicles' fuel tanks.

Although the agency realizes that natural gas dual fueled vehicles' driving range is shorter than that of gasoline-fueled vehicles and several other alternative fuels, (CNG driving range is one-third to one-half that of comparable gasoline-fueled vehicles, and LNG fuel tank range is just under two-thirds that of gasoline), NHTSA's examination of the 1992 amendments and the legislative history of these amendments indicates that the agency is required by the amendment to Section 513(h)(2) to set a minimum driving range of not less than 200 miles for all alternative fueled passenger automobiles other than electric vehicles. The agency trusts that this 200-mile driving range for natural gas dual fueled passenger vehicles is low enough to encourage the production of these vehicles, yet not so low that motorists would be discouraged by a low driving range from actually fueling their vehicles with these alternative fuels.

In the NPRM, NHTSA asked for comments on whether there are any potentially available liquid alternative fuels that have significantly higher energy content than alcohol on a volume basis, and, if so, whether a driving range higher than 200 miles should be set for such fuels. The agency received no such comments; therefore, NHTSA elects to set the minimum driving range for dual fueled passenger automobiles other than electric vehicles at 200 miles.

NHTSA believes that although the majority of commenters preferred a lower minimum driving range for dual fueled passenger vehicles, the law requires the minimum driving range to be set at not less than 200 miles. NHTSA is therefore setting the minimum driving range for all dual fueled vehicles other than electric vehicles at 200 miles to encourage development of these vehicles to the maximum extent possible permitted by law.

4. Proposed Gallon Equivalents for Gaseous Fuels

To carry out the special procedures for fuel economy calculations that apply to alternative fuel vehicles, it is necessary, for gaseous fuel vehicles, to have a gallon equivalent measurement. The 1992 amendments specified that 100 cubic feet of natural gas is deemed

to contain 0.823 gallon equivalent of natural gas. The 1992 amendments required NHTSA to determine the appropriate gallon equivalent measurement for gaseous fuels other than natural gas, and a gallon equivalent of such gaseous fuel shall be considered to have a fuel content of 15 one-hundredths of a gallon of fuel.

The NPRM examined gallon equivalency measurements for five gaseous fuels: (1) compressed natural gas; (2) liquified natural gas; (3) liquified propane gas; (4) hydrogen; and (5) hythane (Hy5). NHTSA received comments regarding the gallon equivalency measurements proposed in the NPRM from Minnegasco, the American Gas Association/Natural Gas Vehicle Coalition (AGA/NGV), Reliance and the Propane Vehicle Council.

A. Liquefied Natural Gas. The Alternative Motor Fuels Act of 1988 included natural gas as an alternative fuel, but did not specify its physical state as a compressed gas or a liquefied gas. The Abacus report recommended that the same 0.823 gallon equivalent of natural gas established in the Alternative Motor Fuels Act be applied to LNG based on energy content in British Thermal Unit (BTU)/Standard Cubic Feet (SCF), because LNG composition and heat of combustion are similar to compressed natural gas.

AGA/NGV recommended that NHTSA not apply the conversion ratio used for CNG to LNG. However, AGA/NGV failed to describe what conversion factor the agency should use for LNG.

AGA/NGV's comments also suggested that a different gallon equivalency be used for CNG. AGA/NGV indicated that the current conversion ratio of 0.823 is inappropriate for use with CNG and presented data suggesting that a conversion ratio of 0.809 (92,370 low heating value Btu per 100 SCF divided by 114,118.8 Btu for gasoline) would be more accurate. The different energy contents of liquefied natural gas and liquid methane (99.6% purity) is another issue of concern to AGA/NGV and it suggested that the conversion ratio for liquid methane should be 0.793 (based on 99.6% pure methane). The differences in energy content, according to AGA/NGV, could have a significant impact on vehicle range.

There were also concerns raised by AGA/NGV about potential confusion caused by the conversion factor of 0.823 value for CNG. AGA/NGV indicated that the National Conference of Weights and Measures (NCW&M) is establishing a standard method of measuring amounts of compressed natural gas sold at retail fueling stations. The NCW&M measurement compares pounds, not cubic feet, of compressed natural gas to gallons of gasoline. As this standard of equating natural gas to gasoline differs from that used for calculating fuel economy, AGA/NGV is concerned that the continued use of the cubic foot equivalency for CAFE purposes will cause confusion. AGA/NGV believes that other regulatory agencies and consumers could misconstrue that the 100 SCF of compressed natural gas equals one gallon of gasoline. Therefore, AGA/NGV urged NHTSA to note in its final rule that its calculations for the cited gaseous fuels are only being promulgated for purposes of performing CAFE calculations and should not be relied upon for other purposes, such as establishing units of measurement for the dispensing of fuel or taxation of alternative fuels.

The divergence between the gallon equivalent for CAFE purposes and as a unit of measure for retail sales and other purposes was also raised in the submission given by Minnegasco. Minnegasco observed that the National Conference of Weights and Measures (NCW&M) adopted 100 Standard Cubic Feet (SCF) as the Gasoline Gallon Equivalent (GGE) for the sale for CNG engine fuel. Minnegasco contends that it would reduce confusion if this gallon equivalent was adopted for purposes of fuel economy determination. Minnegasco also suggested that a similar GGE should be determined for LNG which takes into account temperature, purity and density using standard industry references.

NHTSA believes that it does not have the discretion to assign different gallon equivalency values for LNG and CNG. Both the Alternative Motor Fuels Act and the Energy Policy Act direct that the 0.823 gallon equivalency ratio be used with ''natural gas.'' As CNG and LNG are both natural gases that differ principally in the way they are stored, it is the agency's view that they are both subject to the legislative determination that, for CAFE purposes, 100 SCF of these gases are equivalent to 0.823 gallons of gasoline. Therefore, NHTSA will continue to apply the conversion factor of 0.823 gallon equivalent for LNG and CNG.

B. Liquefied Propane Gas (LPG). The Gas Processors Association Standard 2140–92 specifies four grades of LPG. They are commercial propane, commercial butane, commercial butane-propane mixtures, and propane HD–5. Propane HD–5 is recognized as the most suitable fuel for internal combustion engines operating at moderate to high engine severity. In the NPRM, NHTSA proposed that one gallon of LPG, grade HD–5, is equivalent to 0.732 gallon of gasoline, using a lower heating value. Two commenters addressed the proposed gallon equivalent measurement for LPG. The Propane Vehicle Council and Reliance stated that they supported a gallon equivalency measurement of 0.732 for LPG.

The 0.732 gallon equivalency published in the NPRM was based on a lower heating value recommended in the first Abacus report. After publication of the NPRM, The Department of Energy suggested that the use of a lower heating value for propane was inconsistent with the use of a higher heating value in calculating the gallon equivalency for natural gas. In addition, DOE also indicated that the use of a higher heating value was more consistent with the heating values used by DOE in compiling other energy related information and statistics.

NHTSA believes that the use of a higher heating value for calculation of the gallon equivalency for propane is consistent with the use of higher heating values for natural gas in AMFA and EPACT. Therefore, the agency is setting the gallon equivalency for propane at 0.726 gallons of gasoline per gallon of propane.

C. Hydrogen. NHTSA did not receive any comments regarding the proposed gallon equivalent of 100 SCF of hydrogen of 0.240 contained in the NPRM. As is the case with the gallon equivalency for propane contained in the same NPRM, the proposed value was based on a lower heating value. The agency believes that the use of a lower heating value to calculate the gallon equivalency for hydrogen is inconsistent with the use of a higher heating value for natural gas. NHTSA is therefore setting the gallon equivalency for hydrogen at 0.259 gallons of gasoline per 100 SCF of hydrogen.

D. Hythane. Hythane is a combination of two gaseous fuels: hydrogen and natural gas. The second Abacus report concluded that the gallon equivalent of 100 SCF of this hythane mixture is 0.725 using the lower heating value. NHTSA did not receive any comments regarding the proposed gallon equivalent for hythane. The agency is adopting a value of 0.741 gallons of gasoline per 100 SCF of hythane. This value represents the equivalency at a higher heating value. As is the case with hydrogen and propane, NHTSA believes that the use of this higher heating value is consistent with the use of higher heating values in calculating the gallon equivalency for natural gas.

Regulatory Impacts

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This notice has not been reviewed under Executive Order 12866. NHTSA has considered the impact of this rulemaking action and has determined that the action is not ''significant'' under the Department of Transportation's regulatory policies and procedures. In this final rule, the agency is setting the minimum driving range for all dual fueled passenger automobiles other than electric vehicles at 200 miles and is establishing gallon equivalents for specified gaseous fuels. None of these changes will result in an additional burden on manufacturers. They do not impose any mandatory requirements but implement statutory incentives to encourage the manufacture of alternative fuel vehicles. For these reasons, NHTSA believes that any impacts on manufacturers are so minimal as not to warrant preparation of a full regulatory evaluation.

B. Regulatory Flexibility Act

The agency has also considered the effects of this rulemaking action under the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact on a substantial number of small entities. The rationale for this certification is that, to the extent that any passenger automobile manufacturers qualify as small entities, their number would not be substantial. Moreover, conversion of vehicles to dual fuel status with the minimum ranges that would be established by this regulation would be voluntarily undertaken in order to achieve beneficial CAFE treatment of those vehicles. Therefore, no significant costs would be imposed on any manufacturers or other small entities.

C. National Environmental Policy Act

The agency has also analyzed this rule for the purpose of the National Environmental Policy Act, and determined that it would not have any significant impact on the quality of the human environment. Increased evaporative emissions due to added fuel volume would be the most important environmental impact of this rulemaking if it induced manufacturers to enlarge the size of existing fuel tanks in order to produce dual fuel vehicles operating on alcohol or other liquid fuel. However, the minimum range would not make it necessary for these dual fuel vehicles to have enlarged fuel tanks. Natural gas and other gaseous dual fueled automobiles will not expect to increase evaporative emissions since gaseous tanks do not normally vent to the atmosphere.

D. Paperwork Reduction Act

The procedures in this proposed rule for passenger automobile manufacturers to petition for lower driving ranges are considered to be information collection requirements as that term is defined by the Office of Management and Budget (OMB) in 5 CFR part 1320. The information collection requirements for part 538 have been submitted to and approved by the OMB, pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) This collection of information has been assigned OMB Control No. 2127–0554. (Minimum Driving Ranges for Dual Energy Passenger Automobiles) and has been approved for use through June 30, 1996.

E. Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

F. Civil Justice Reform

This proposed rule would not have any retroactive effect and it does not preempt any State law. 49 U.S.C. 32909 sets forth a procedure for judicial review of automobile fuel economy regulations. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 538

Energy conservation, Gasoline, Imports, Motor vehicles.

In consideration of the foregoing, 49 CFR part 538 is revised to read as follows:

PART 538—MANUFACTURING INCENTIVES FOR ALTERNATIVE FUEL VEHICLES

Secs.

Authority: 49 U.S.C. 32901, 32905, and 32906; delegation of authority at 49 CFR 1.50.

§ 538.1 Scope.

This part establishes minimum driving range criteria to aid in identifying passenger automobiles that are dual fueled automobiles. It also establishes gallon equivalent measurements for gaseous fuels other than natural gas.

§ 538.2 Purpose.

The purpose of this part is to specify one of the criteria in 49 U.S.C. chapter 329 ''Automobile Fuel Economy'' for identifying dual fueled passenger automobiles that are manufactured in model years 1993 through 2004. The fuel economy of a qualifying vehicle is calculated in a special manner so as to encourage its production as a way of facilitating a manufacturer's compliance with the Corporate Average Fuel Economy Standards set forth in part 531 of this chapter. The purpose is also to establish gallon equivalent measurements for gaseous fuels other than natural gas.

§ 538.3 Applicability.

This part applies to manufacturers of automobiles.

§ 538.4 Definitions.

(a) Statutory terms. (1) The terms *alternative fuel, alternative fueled automobile,* and *dual fueled automobile,* are used as defined in 49 U.S.C. 32901(a).

(2) The terms *automobile* and *passenger automobile*, are used as defined in 49 U.S.C. 32901(a), and in accordance with the determinations in part 523 of this chapter.

(3) The term *manufacturer* is used as defined in 49 U.S.C. 32901(a)(13), and in accordance with part 529 of this chapter.

(4) The term *model year* is used as defined in 49 U.S.C. 32901(a)(15).

(b)(1) Other terms. The terms *average fuel economy, fuel economy,* and *model type* are used as defined in subpart A of 40 CFR part 600.

(2) The term *EPA* means the U.S. Environmental Protection Agency.

§ 538.5 Minimum driving range.

(a) The minimum driving range that a passenger automobile must have in order to be treated as a dual fueled automobile pursuant to 49 U.S.C. 32901(c) is 200 miles when operating on its nominal useable fuel tank capacity of the alternative fuel, except when the alternative fuel is electricity.

(b) [Reserved]

§ 538.6 Measurement of driving range.

The driving range of a passenger automobile model type is determined by multiplying the combined EPA city/highway fuel economy rating when operating on the alternative fuel, by the nominal usable fuel tank capacity (in gallons), of the fuel tank containing the

alternative fuel. The combined EPA city/highway fuel economy rating is the value determined by the procedures established by the Administrator of the EPA under 49 U.S.C. 32904 and set forth in 40 CFR part 600.

§ 538.7 [Reserved]

§ 538.8 Gallon Equivalents for Gaseous Fuels.

The gallon equivalent of gaseous fuels, for purposes of calculations made under 49 U.S.C. 32905, are listed in Table I:

TABLE I—GALLON EQUIVALENT MEASUREMENTS FOR GASEOUS FUELS PER 100 STANDARD CUBIC FEET

Fuel	Gallon equivalent measurement
Compressed Natural Gas	0.823
Liquefied Natural Gas	0.823
Liquefied Petroleum Gas (Grade HD–5)*	0.726
Hydrogen	0.259
Hythane (Hy5)	0.741

*Per gallon unit of measure.

Issued on: March 21, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–7828 Filed 4–1–96; 8:45 am]

BILLING CODE 4910–59–P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 800

Organization and Functions of the Board and Delegations of Authority

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: This revision corrects an inadvertent omission. By Federal Register notice published November 30, 1995 (60 FR 61487), the Safety Board revised a number of its organizational descriptions, including 49 CFR 800.2(g). The Board inadvertently failed to indicate in that rule that the Office of Surface Transportation Safety also conducts investigations concerning hazardous materials accidents. This notice corrects that omission.

DATES: The new rule is effective on April 2, 1996.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall, (202) 382–6540.

SUPPLEMENTARY INFORMATION: Effective January 2, 1996, and to reflect current practice, the Safety Board updated the description of its organization and the delegations of authority that are published at 49 CFR Part 800. Unintentionally, the newly adopted paragraph at Part 800.2(g) did not reflect the responsibility of the Office of Surface Transportation to investigate accidents involving hazardous materials. This notice corrects that omission.

List of Subjects in 49 CFR Part 800

Authority delegations (Government agencies), Organization and functions (Government agencies).

Accordingly, 49 CFR Part 800 is amended as set forth below.

PART 800—ORGANIZATION AND FUNCTIONS OF THE BOARD AND DELEGATIONS OF AUTHORITY

1. The Authority citation for Part 800 continues to read as follows:

Authority: Independent Safety Board Act of 1974, as amended (49 U.S.C. 1101 *et seq.*); Federal Aviation Act of 1958, as amended (49 U.S.C. 40101 *et seq.*).

2. Section 800.2 is amended by revising paragraph (g) to read as follows:

§ 800.2 Organization.

* * * * *

(g) The Office of Surface Transportation Safety, which conducts investigations of highway, railroad, pipeline, marine, and hazardous materials accidents within the Board's jurisdiction; prepares reports for submission to the Board and release to the public setting forth the facts and circumstances of such accidents, including a recommendation as to the probable cause(s); determines the probable cause(s) of accidents when delegated authority to do so by the Board; initiates safety recommendations to prevent future surface transportation accidents; participates in the investigation of accidents that occur in foreign countries and involve U.S.-registered vessels; and conducts special investigations into selected surface accidents involving safety issues of concern to the Board.

* * * * *

Issued in Washington, D.C. on this 28th day of March 1996.

Daniel D. Campbell,

General Counsel.

[FR Doc. 96–7986 Filed 4–1–96; 8:45 am]

BILLING CODE 7533–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 960111002–6087–02; I.D. 112495B]

RIN 0648–AG31

Pacific Coast Groundfish Fishery; Designation of Routine Management Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS announces regulations to designate certain management measures as ''routine'' in the Pacific coast groundfish fishery off Washington, Oregon, and California. Once management measures have been designated as routine, they may be modified after a single meeting and recommendation of the Pacific Fishery Management Council (Council). Such action is authorized under the Pacific Coast Groundfish Fishery Management Plan (FMP) and is intended to provide for responsive inseason management of the groundfish resource.

EFFECTIVE DATE: May 2, 1996.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206–526–6140, or Rodney R. McInnis at 310–980–4030.

SUPPLEMENTARY INFORMATION: The FMP authorizes the designation of certain management measures as ''routine.'' Routine management measures are specific for species, gear types, and purposes. Implementation and adjustment of those routine measures may occur after consideration at a single Council meeting, approval by NMFS, and announcement in the Federal Register. Adjustments must be within the scope of the analysis performed when the management measure originally is designated routine. This final rule makes additional routine designations, as follows: (1) Trip limits for all groundfish species, separately or in any combination, taken with open access gear; and (2) in the limited entry (or open access) fisheries, trip and size limits for lingcod, and trip limits for

canary rockfish, shortspine thornyheads, and longspine thornyheads.

NMFS issues this final rule under the authority of the FMP and the Magnuson Fishery Conservation and Management Act (Magnuson Act). NMFS published a proposed rule at 61 FR 1739 (January 23, 1996), requesting comments through March 8, 1996. The proposed rule was based on a recommendation made by the Pacific Fishery Management Council (Council) at its October 1994 meeting. NMFS concurs with the Council's recommendation, and, as no written comments were received, the regulatory text of this final rule is the same as proposed. The proposed rule and Environmental Assessment and Regulatory Impact Review (EA/RIR) prepared for this action contain relevant background and rationale.

Classification

The Assistant Administrator for Fisheries, NOAA (AA) has determined that this final rule is necessary for management of the Pacific coast groundfish fishery and that it is consistent with the Magnuson Act and other applicable law.

The Council prepared an EA for this rule (contained in the EA/RIR) and the AA concluded that there would be no significant impact on the environment.

This rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 27, 1996.

Charles Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 663 is amended as follows:

PART 663—PACIFIC COAST GROUNDFISH FISHERY

l. The authority citation for part 663 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 663.23, paragraphs (c)(1)(i)(G)through (I) and paragraph (c)(1)(ii)(A) are revised, paragraphs (c)(1)(i)(J), (K), and (L) are added; paragraph (c)(2) is removed, and paragraph (c)(3) is redesignated as paragraph (c)(2) to read as follows:

§ 663.23 Catch restrictions.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(G) Thornyheads (shortspine thornyheads or longspine thornyheads, separately or combined)—all gear—trip landing and frequency limits;

(H) Bocaccio—all gear—trip landing and frequency limits;

(I) Pacific whiting—all gear—trip landing and frequency limits;

(J) Lingcod—all gear—trip landing and frequency limits; size limits;

(K) Canary rockfish—all gear—trip landing and frequency limits; and

(L) All groundfish, separately or in any combination—any legal open access gear (including non-groundfish trawl gear used to harvest pink shrimp, spot or ridgeback prawns, California halibut or sea cucumbers in accordance with the regulations in this subpart)—trip landing and frequency limits. (Size limits designated routine in this section continue to apply.)

(ii) * * *

(A) Trip landing and frequency limits—to extend the fishing season; to minimize disruption of traditional fishing and marketing patterns; to reduce discards; to discourage target fishing while allowing small incidental catches to be landed; to allow small fisheries to operate outside the normal season; and, for the open access fishery only, to maintain landings at historical (1984–88) proportions.

* * * * *

[FR Doc. 96–7993 Filed 4–1–96; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 64
Tuesday, April 2, 1996

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1002 and 1004

[DA–96–02]

Milk in the New York-New Jersey and Middle Atlantic Marketing Areas; Proposed Suspension of Certain Provisions of the Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This document invites written comments on a proposal to suspend a pooling provision of the New York-New Jersey order and a provision in the Middle Atlantic order's base-excess plan. The proposal was submitted on behalf of several handlers (cooperative and proprietary) who market the milk of dairy farmers who are located in a common supply area and who have milk pooled under both orders. Proponents contend that this suspension would enable them to assemble and transport milk of producers more efficiently.

DATES: Comments are due no later than April 12, 1996.

ADDRESSES: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, D.C. 20090–6456.

FOR FURTHER INFORMATION CONTACT: Gino M. Tosi, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 690–1366.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601–612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this proposed rule would not have a significant economic impact on a substantial number of small entities. This rule would lessen the regulatory impact of the order on certain milk handlers and would tend to ensure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The Department is issuing this proposed rule in conformance with Executive Order 12866.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is not intended to have a retroactive effect. If adopted, this proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provisions of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act, the suspension of the following provisions of the orders regulating the handling of milk in the New York-New Jersey and Middle Atlantic marketing areas is being considered through September 30, 1996, beginning on May 1, 1996:

1. In § 1002.14 of the New York-New Jersey order, paragraph (d); and

2. In § 1004.92(c)of the Middle Atlantic order, the words ''and who held such status in all or part of the 2 months of August and September and who otherwise was a producer only under this part for all of the remaining August through December period''.

All persons who want to submit written data, views or arguments about the proposed suspension should send two copies of their views to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, by the 10th day after publication of this notice in the Federal Register.

The comment period is limited to 10 days because a longer period would not provide the time needed to complete the required procedures before the requested suspension is to be effective.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

This proposed action would suspend a pooling provision of the New York-New Jersey (order 2) and a provision in the Middle Atlantic (Order 4) order's base-excess plan. The suspension would allow handlers regulated under Order 2 and Order 4 to assemble and transport the milk of dairy farmers more efficiently and thereby reduce costs. Suspension of these provisions in the two orders would permit handlers to freely shift the milk of individual dairy farmers between the two markets. Proponents claim that this added flexibility would enable Order 2 and 4 handlers to furnish the fluid needs of bottling plants more effectively. Handlers will be obligated to change the pooling status of individual producers to achieve this efficiency, say the proponents.

Under the terms of Order 2, an individual dairy farmer's milk may not be pool milk during the months of December through June if any of the dairy farmer's milk was producer milk under another Federal order in the preceding months of July through November. Under the Order 4 base-excess plan provisions, a dairy farmer's milk deliveries to handlers regulated under Orders 2 and 4 during August and September would be used to compute the producer's Order 4 base only if the dairy farmer's milk was pooled on Order 4 during the remaining months (October-December) of such base-forming period. Proponents contend that suspending these order provisions would allow milk to be shifted to Order 2 from Order 4 and would also allow Order 2 milk to be shifted to Order 4

without negative consequences to producers.

Suspension of the foregoing provisions on Order 2 and 4 producers would facilitate more efficient milk assembly and transportation in a geographic area characterized by a significant overlap of milksheds and pool plants, proponents claim.

Several handlers (cooperative and proprietary) who market the milk of dairy farmers under Orders 2 and 4 requested the suspension. Proponents ask that the provisions be suspended for the months of May through September 1996.

In support of the action, proponents stated that the State of Pennsylvania has become a common milkshed for Orders 2 and 4. In June 1995 there were 3,836 Pennsylvania dairy farmers pooled on Order 2 and 3,717 Pennsylvania producers pooled on Order 4. These dairy farmers represented 37 percent of the total producers on Order 2 and 73 percent of the total producers on Order 4. They produced 27 percent of the Order 2 pool milk and 67 percent of the Order 4 producer receipts. There is significant overlap of producers supplying the two markets in the Pennsylvania counties of Lancaster, Lebanon, Chester, and Berks, proponents stated.

Proponents also indicated in their request that a large percentage of the milk that is picked up in the common supply area of Pennsylvania is delivered to Order 4 fluid milk plants located at Wawa, Sunbury and Fort Washington, Pennsylvania and Florence, New Jersey. Some of the milk produced in this same area is delivered to the Order 2 pool plants located at Lansdale and Reading.

Two proponent cooperatives (Atlantic Dairy Cooperative and Milk Marketing, Inc.) and a proprietary handler, (Dietrich's Milk Products) also a proponent of the suspension, have made plans to combine their milk routes in Pennsylvania to assemble and haul the milk from farms that are most advantageously located to plants where the milk is needed for processing. The commingling of the milk supply of these three handlers is scheduled to begin on May 1, 1996, which is the first month the suspension is to be effective.

Accordingly, it may be appropriate to suspend the aforesaid provisions from May 1, 1996 through September 30, 1996.

List of Subjects in 7 CFR Parts 1002 and 1004

Milk marketing orders.

The authority citation for 7 CFR Parts 1002 and 1004 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Dated: March 27, 1996.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 96–7900 Filed 4–1–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–71–AD]

Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, that would have required reinforcing the lower right-hand wing skin at the fueling adapter. That proposal was prompted by results of tests, which revealed that fatigue cracks can develop in the lower right-hand wing skin at the attachment bolt holes of the fueling adapter. This action revises the proposed rule by citing the latest service information. This action also revises the applicability of the proposed AD. The actions specified by this proposed AD are intended to prevent reduced structural capability of the wing and fuel leakage.

DATES: Comments must be received by April 26, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–71–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ruth E. Harder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–1721; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 92–NM–71–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 92–NM–71–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Fokker Model F28 Mark 0100 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the Federal Register on June 4, 1992 (57 FR 23552). That NPRM would have required reinforcing the lower right-hand wing skin at the fueling adapter. That NPRM was prompted by results of tests, which revealed that fatigue cracks can develop in the lower right-hand wing skin at the attachment bolt holes of the fueling adapter. That condition, if not corrected, could result in reduced

structural capability of the wing and fuel leakage.

Since the issuance of that NPRM, Fokker issued Service Bulletin SBF100–57–008, Revision 1, dated March 29, 1992, and Revision 2, dated September 22, 1995. (The original issue of the service bulletin, dated November 1, 1991, was cited in the NPRM as the appropriate source of service information.) Revision 1 of the service bulletin provides procedures for reinforcing the lower right-hand wing skin at the fueling adapter that are significantly revised beyond the procedures specified in the original issue of the service bulletin. Revision 2 of the service bulletin provides additional procedures for reinforcement that include installation of eight hilok bolts and cold sleeve expansion of the fueling adapter attachment holes. In addition, the effectivity of Revision 2 has been revised to include additional airplanes that are subject to the addressed unsafe condition; certain other airplanes have been removed from the effectivity listing.

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, classified these service bulletins as mandatory, and issued Dutch airworthiness directive BLA 1991–131/3 (A), dated October 31, 1995, in order to assure the continued airworthiness of these airplanes in the Netherlands.

The FAA examined the findings of the RLD and reviewed the revised service information. The FAA finds that the NPRM must be revised to require that the reinforcement be accomplished in accordance with Revision 2 of the service bulletin. Paragraph (a) of this supplemental NPRM has been revised accordingly. In addition, a note has been added to this supplemental NPRM to specify that no further action is required for airplanes on which the reinforcement has been accomplished in accordance with Revision 1 of the service bulletin prior to the effective date of this proposed AD.

In addition, the applicability of the proposed AD has been revised to include additional airplanes that are subject to the addressed unsafe condition and to remove certain other airplanes.

Since these changes expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

The FAA also has revised the economic impact information, below, to reflect the current number of airplanes of U.S. registry that would be affected by this proposed AD. This information also has been revised to reflect an increase in the cost for required parts from $880 to $950 per airplane based on the latest information from the manufacturer. Additionally, the labor rate used in these calculations has been increased from $55 per work hour to $60 per work hour to account for the various inflationary costs in the airline industry.

The FAA estimates that 18 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 20 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $950 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $38,700, or $2,150 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

However, the FAA has been advised that 14 U.S.-registered airplanes have already been modified in accordance with the requirements of this proposed AD. Therefore, the future economic cost impact of this proposed rule on U.S. operators is now only $8,600.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Fokker: Docket 92–NM–71–AD.

Applicability: Model F28 Mark 0100 series airplanes; serial numbers 11244 through 11286 inclusive, 11289, 11290 through 11293 inclusive, 11295, 11297, 11300, 11303, 11306, 11308, 11310, and 11312; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural capability of the wing and fuel leakage, accomplish the following:

(a) Prior to the accumulation of 12,000 total landings, or within 60 days after the effective date of this AD, whichever occurs later, reinforce the lower right-hand wing skin at the fueling adapter by installing a new stringer and new internal and external doubler plates, in accordance with Fokker Service Bulletin SBF100–57–008, Revision 2, dated September 22, 1995.

Note 2: Accomplishment of the reinforcement in accordance with Fokker Service Bulletin SBF100–57–008, Revision 1, dated March 29, 1992, prior to the effective date of this AD is acceptable for compliance with the requirement of paragraph (a) of this AD.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA,

Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on March 27, 1996.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–7985 Filed 4–1–96; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS–2–95]

RIN 1545–AT19

Distribution of Marketable Securities by a Partnership; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the treatment of a distribution of marketable securities by a partnership.

DATES: The public hearing originally scheduled for Wednesday, April 3, 1996, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Christina Vasquez of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 731 of the Internal Revenue Code. A notice of proposed rulemaking and notice of public hearing appearing in the Federal Register for Tuesday, January 2, 1996 (61 FR 28), announced that the public hearing on proposed regulations under section 731 of the Internal Revenue Code would be held on Wednesday, April 3, 1996, beginning at 10 a.m., in the IRS Auditorium Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C.

The public hearing scheduled for Wednesday, April 3, 1996, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96–8019 Filed 3–28–96; 4:40 pm]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

[SPATS No. MO–029–FOR]

Missouri Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Missouri regulatory program (hereinafter the ''Missouri program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed Amendment consists of revisions to the Missouri statutes pertaining to requirements and procedures for adoption of new or amended rules. The amendment is intended to revise the Missouri program to be consistent with the corresponding Federal regulations and SMCRA.

DATES: Written comments must be received by 4:00 p.m., c.d.t., May 2, 1996. If requested, a public hearing on the proposed amendment will be held on April 29, 1996. Requests to speak at the hearing must be received by 4:00 p.m., c.d.t., April 17, 1996.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Brent Wahlquist, Regional Director, Mid-Continent Regional Coordinating Center, at the address listed below.

Copies of the Missouri program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Mid-Continent Regional Coordinating Center.

Brent Wahlquist, Regional Director, Mid-Continent Regional Coordinating Center, Office of Surface Mining Reclamation and Enforcement, Alton Federal Building, 501 Belle Street, Alton, Illinois, 62002, Telephone: (618) 463–6460.

Missouri Department of Natural Resources, Land Reclamation Program, 205 Jefferson Street, P.O. Box 176, Jefferson City Missouri, 65102, Telephone: (573) 751–4041.

FOR FURTHER INFORMATION CONTACT: Brent Wahlquist, Regional Director, Mid-Continent Regional Coordinating Center, Telephone: (618) 463–6460.

SUPPLEMENTARY INFORMATION:

I. Background on the Missouri Program

On November 21, 1980, the Secretary of Interior conditionally approved the Missouri program. General background information on the Missouri program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Missouri program can be found in the November 21, 1980, Federal Register (45 FR 77017). Subsequent actions concerning Missouri's program and program amendments can be found at 30 CFR 925.12, 925.25 and 925.16.

II. Description of the Proposed Amendment

By letter dated March 20, 1996 (Administrative Record No. MO–637), Missouri submitted a proposed amendment to its program pursuant to SMCRA. Missouri submitted the proposed amendment at its own initiative. The proposed amendment concerns changes to the Missouri Surface Coal Mining Law contained in Senate Bill No. 3. The provisions of the Revised Statutes of Missouri (RSMo) that Missouri proposes to amend are discussed below.

1. RSMo 444.800.5 Rules May Be Suspended and Reinstated

Missouri proposes to remove the provision at RSMo 444.800.5 concerning the authority of the joint committee on administrative rules to suspend and reinstate a rule based upon specified circumstances.

2. RSMo 444.810.2 Powers of Commission

Missouri proposes to remove the existing provisions at RSMo 444.810.2 through 8 concerning requirements and procedures for adoption of new or amended rules and to add the following new provision at RSMo 444.810.2.

No rule or portion of a rule promulgated under the authority of sections 444.800 to 444.970 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

3. RSMo 444.950.2 Phase I Reclamation Bond Requirement

Missouri proposes to remove the existing provisions at RSMo 444.950.2 through 8 concerning requirements and procedures for adoption of new or amended rules; to add the following new provision at RSMo 444.950.2; and to redesignate RSMo 444.950.9 through 11 as RSMo 444.950.3 through 5.

No rule or portion of a rule promulgated under the authority of sections 444.800 to 444.970 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.

4. Missouri also submitted a copy of Chapter 536 of RSMo, Administrative Procedure and Review, which is referenced in the proposed revisions to RSMo 444.810 and 444.950.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Missouri program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Mid-Continent Regional Coordinating Center will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to speak at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.d.t., on April 17, 1996. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

The location and time of the hearing will be arranged with those persons requesting the hearing. Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions. Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

The public hearing will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

Public Meeting

If only one person requests an opportunity to speak at a hearing, a public hearing, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under **ADDRESSES**. A written summary of each meeting will be made a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 925

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 26, 1996.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 96–7950 Filed 4–1–96; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP TAMPA 95–016]

RIN 2115–AA97

Safety Zone; Tampa Bay, Hillsborough Bay and Approaches, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish regulations governing the movement of vessels with a beam greater than 110 feet within Tampa Bay and Hillsborough Bay, Florida and their approaches. In view of the safety hazards to the harbor, vessels and structures associated with wide beam

vessels, the Coast Guard deems it necessary to control the movement of these vessels and to establish safety zones surrounding these vessels in prescribed areas under certain conditions. The purpose of this action is to establish regulations governing vessel movement procedures that were previously implemented on a case by case basis with Captain of the Port Orders. By establishing this proposed permanent rule companies would be aware of the scheduled wide beam transits and would be able to adjust their movements accordingly and avoid incidents that pose safety hazards.

DATES: Comments must be received on or before June 3, 1996.

ADDRESSES: Comments should be mailed to Commanding Officer, Marine Safety Office Tampa, 155 Columbia Drive, Tampa, Florida, 33606–3598. The comments will be available for inspection and copying at 155 Columbia Drive, Tampa, Florida, telephone (813) 228–2189. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except federal holidays. Comments may also be hand-delivered to that address.

FOR FURTHER INFORMATION CONTACT: Lieutenant Dirk A. Greene, Coast Guard Marine Safety Office Tampa at (813) 228–2189.

SUPPLEMENTARY INFORMATION: By establishing a permanent rule, the Coast Guard will enhance public notice of the rule. Companies aware of scheduled wide beam transits can adjust movements of their vessels to avoid incidents that pose safety hazards. Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (COTP Tampa 95–016) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. The proposed rule may be changed in light of the comments received. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Discussion of Proposed Regulations

Wide beam vessels are defined as all vessels with a beam of 110 feet or greater, with drafts restricting them to narrow ship channels. Historically, these vessels have posed added safety hazards to the harbor, vessels, and structures due to their limited ability to maneuver in narrow channels, navigate sharp turns, and pass other large vessels within Tampa Bay, Hillsborough Bay and approaches. In order to reduce the likelihood of any adverse incidents associated with the passage of these vessels in Tampa Bay, Hillsborough Bay and their approaches, the Coast Guard proposes that moving safety zones be implemented around all such vessels in these areas. The proposed moving safety zone would consist of an area around the vessel the width of the channel and 1000 yards fore and aft of the vessel. The safety zone would be in effect as the inbound wide beam passes Mullet Key Channel buoy 23 and 24 and would remain in effect until the vessel is moored. The proposed safety zone would be in effect anytime the vessel is underway intrabay until the vessel passes Mullet Key Channel buoy 23 and 24 outbound. The precaution of a moving safety zone is deemed necessary, because vessels with a wide beam have limited ability to take evasive action when operating within the confines of the main ship channel. The likelihood of collision would be minimized by eliminating meeting, overtaking or crossing situations in the affected channels. Vessels would not be permitted to meet or overtake the wide beam vessel while it is underway. By establishing these proposed moving safety zones, the Coast Guard expects to minimize the risk of collision on the Tampa Bay, Hillsborough Bay and approaches.

Regulatory Evaluation

This proposed rulemaking is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The conditions outlined herein for moving wide beam vessels in Tampa Bay have been followed through utilization of Captain of the Port Orders for at least five (5) years.

Since the impact of this proposed rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to Section 2.B.2. of Commandant Instruction M16475.1B that this action is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis Checklist are available in the docket for inspection or copying.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 165 of Title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

§ 165.754 Tampa Bay, Hillsborough Bay and Approaches, FL.

(a) A moving safety zone is established around any vessel restricted to the channel with a beam exceeding 110 feet during its transit of Tampa Bay and Hillsborough Bay. The moving safety zone consists of an area around the vessel the width of the channel and 1000 yards fore and aft of the vessel.

(1) The safety zone is established when a wide beam vessel passes Mullet Key Channel buoys 23 and 24 (LLNR 1445 and LLNR 1446) inbound and at all times when the vessel is under way within Tampa Bay and Hillsborough Bay.

(2) The safety zone is disestablished when the wide beam vessel passes

Mullet Key Channel buoys 23 and 24 (LLNR 1445 and LLNR 1146) outbound.

(b) No vessel shall enter the safety zone without the permission of the Captain of the Port Tampa.

(c) The general regulations governing safety zones contained in 33 CFR § 165.23 apply.

(d) Any vessel with a beam greater than 110 feet shall give Coast Guard Marine Safety Office Tampa a minimum of 24 hours notice of its intended arrival, departure, and berth transfer within Tampa Bay.

(e) Marine Safety Office Tampa will notify the marine community of periods during which a safety zone will be in effect by providing advance notice of scheduled arrivals and departures of wide beam vessels via a marine broadcast Notice to Mariners.

(f) If a vessel with a beam greater than 110 feet begins its transit more than a hour and a half from the scheduled time stated in the Broadcast Notice to Mariners, the vessel shall notify and obtain permission from the Captain of the Port Tampa before commencing its inbound or outbound transit, or departing its berth to shift to another berth.

(g) The Captain of the Port Tampa may waive any of the requirements of this section for any vessel upon finding that the vessel or class of vessel, operational conditions, or other circumstances make the application of this section unnecessary or impractical for purposes of port safety or environmental protection.

Dated: March 19, 1996.

R.W. Harbert,

Captain, U.S. Coast Guard, Captain of the Port Tampa.

[FR Doc. 96–7957 Filed 4–1–96; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL–18–6–6819b; FRL–5424–5]

Approval and Promulgation of Implementation Plan; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On May 23, 1995, and June 7, 1995, the Illinois Environmental Protection Agency (IEPA) submitted to the USEPA an adopted rule and supporting information for the control of batch processes as a requested State Implementation Plan (SIP) revision. This rule is part of the State's control measures for volatile organic compound (VOC) emissions, for the Chicago and East St. Louis ozone nonattainment areas, and is intended to satisfy part of the requirements of section 182(b)(2) of the Clean Air Act (Act) amendments of 1990. VOC is one of the air pollutants which combine on hot summer days to form ground level ozone, commonly known as smog. Ozone pollution is of particular concern because of its harmful effects upon lung tissue and breathing passages. This regulation requires a reasonably available control technology (RACT) level of control as required by the amended ACT. This action lists the State implementation plan revision that USEPA is proposing to approve and provides an opportunity for public comment. A rationale for approving this request is presented in the final rules section of this Federal Register, where USEPA is approving the revision request as a direct final rule without prior proposal because USEPA views this as a noncontroversial revision and anticipates no adverse comments. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments the direct final rule will be withdrawn. Any parties interested in commenting on this notice should do so at this time. The final rule on this proposed action will address all comments received.

DATES: Comments on this document must be received by May 2, 1996.

ADDRESSES: Written comments should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments should be strictly limited to the subject matter of this proposal.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Air Programs Branch, U.S. Environmental Protection Agency, Region 5, (312) 886–6052, at the Chicago address indicated above.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this Federal Register.

Dated: January 17, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–7905 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[IN55–1–7076b; FRL–5435–9]

Approval and Promulgation of Implementation Plan; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The USEPA proposes to approve the State implementation plan (SIP) revision submitted by the State of Indiana for 326 IAC 2–9–1 and 326 IAC 2–9–2 (a), (b), and (e) of its Source Specific Operating Agreement (SSOA) regulation. The USEPA made a finding of completeness in a letter dated November 25, 1994. These sections of the SSOA regulation have been developed to establish federally enforceable conditions for industrial or commercial surface coating operations, graphic arts operations, or grain elevators by limiting potential emissions below the title V major source threshold levels. In the final rules section of this Federal Register, the USEPA is approving these actions as a direct final rule without prior proposal because USEPA views these as noncontroversial actions and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. The USEPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Comments on this proposed rule must be received on or before May 2, 1996.

ADDRESSES: Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulatory Development Section, Regulatory Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulatory Development Section, Regulatory Development

Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, Environmental Engineer, Permits and Grants Section, Regulatory Development Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3189.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this Federal Register.

Dated: February 12, 1996.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 96–7906 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[KY20–1–9612b; FRL–5447–9]

Approval and Promulgation of Implementation Plans Kentucky: Approval of Revisions to the Kentucky State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is approving revisions to the Kentucky State Implementation Plan (SIP) submitted on June 15, 1983, by the Commonwealth of Kentucky through the Natural Resources and Environmental Protection Cabinet (Cabinet). The revisions pertain to Kentucky regulations 401 KAR 50:025, Classification of counties, and 401 KAR 61:015, Existing indirect heat exchangers. The purpose of these revisions is to reclassify McCracken County from a Class I area to a Class IA area, with respect to sulfur dioxide, and to allow a relaxation of the sulfur dioxide emission limit in McCracken County.

In the final rules section of this Federal Register, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the EPA views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by May 2, 1996.

ADDRESSES: Written comments should be addressed to: Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW., Washington DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, Atlanta, Georgia 30365.

Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division for Air Quality 803 Schenkel Lane, Frankfort, Kentucky 40601–1403.

FOR FURTHER INFORMATION CONTACT: Mr. Scott M. Martin, Regulatory Planning and Development Section, Air Programs Branch, Air Pesticides and Toxics Management Division, Region 4 Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365. The telephone number is (404) 347–3555 ext. 4216.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this Federal Register.

Dated: March 13, 1996.

Phyllis P. Harris,

Acting Regional Administrator.

[FR Doc. 96–7909 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[TN–140–01–6910b: FRL–5443–3]

Approval and Promulgation of Air Quality Implementation Plans; Tennessee; Revision to New Source Review, Construction and Operating Permit Requirements for Nashville/ Davidson County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve revisions to the Nashville/Davidson County portion of the Tennessee State Implementation Plan (SIP), submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation on September 27, 1994. These include revisions to Nashville/Davidson County's new source review (NSR) regulations, which were made to bring the Nashville/ Davidson County regulations into compliance with the 1990 amendments to the Clean Air Act (the Act) and the Federal regulations. In the final rules section of this Federal Register, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by May 2, 1996.

ADDRESSES: Written comments should be addressed to: Ms. Karen Borel, at the Regional Office Address listed below.

Copies of the material submitted by the State of Tennessee may be examined during normal business hours at the following locations:

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365.

Tennessee Division of Air Pollution Control, 9th Floor L&C Annex, 401 Church Street, Nashville, Tennessee 37243–1531

Bureau of Environmental Health Services, Metropolitan Health Department, Nashville-Davidson County, 311—23rd Avenue, North, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Interested persons wanting to examine documents relative to this action should

make an appointment with the Region 4 Air Programs Branch at least 24 hours before the visiting day. To schedule the appointment or to request additional information, contact Karen C. Borel, Regulatory Planning and Development Section, Air Programs Branch, Air, Pesticides & Toxics Management Division, Region 4 EPA, 345 Courtland Street, NE, Atlanta, Georgia 30365. The telephone number is 404/347–3555 extension 4197. Reference file TN140–01–6910.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this Federal Register.

Dated: March 4, 1996.

Phyllis P. Harris,

Acting Regional Administrator.

[FR Doc. 96–7912 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[PA028–5913b; FRL–5427–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania—Emission Statement Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision consists of an emission statement program for stationary sources that emit volatile organic compounds (VOCs) and/or nitrogen oxides (NO_x) at or above specified actual emission threshold levels within the County of Allegheny only. In the Final Rules section of this Federal Register, EPA is approving the Pennsylvania's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial SIP revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 2, 1996.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA office listed above; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; Allegheny County Health Department, Bureau of Air Pollution Control, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 597–3164, at the EPA Region III address above.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title (Pennsylvania Emission Statement Program) which is located in the Rules and Regulations section of this Federal Register.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 2, 1996.

W.T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. 96–7914 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[MI43–01–7043; AMS-FRL–5451–3]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes: State of Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve Michigan's request to redesignate the Grand Rapids (Kent and Ottawa Counties) moderate ozone nonattainment area to attainment for ozone. In addition, the EPA proposes to approve the associated section 175A maintenance plan as part of the Michigan State Implementation Plan (SIP) for attainment and maintenance of the National Ambient Air Quality Standard (NAAQS) for ozone.

DATES: Comments on this proposed action must be received in writing by May 2, 1996.

ADDRESSES: Written comments should be sent to Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of this SIP revision and EPA's analysis are available for inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Jacqueline Nwia, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6081. Anyone wishing to come to Region 5 offices should contact Jacqueline Nwia first.

SUPPLEMENTARY INFORMATION: Under the Clean Air Act, as amended in 1990 (Act), nonattainment areas can be redesignated to attainment if sufficient data are available to warrant such changes and the area satisfies other criteria contained in section 107(d)(3) of the Act. On March 9, 1995, Michigan submitted a redesignation request and section 175A maintenance plan for the Grand Rapids and Muskegon moderate ozone nonattainment areas. On May 1, 1995, Michigan submitted a supplement to the March 9, 1995, request which included documentation of public comment and hearing which was held on April 10, 1995. Further, on January 24, 1996, the State submitted a letter advising EPA of its intent to revise the section 175A maintenance plan for Grand Rapids to add control measures to the list of contingency measures in the contingency plan. Specifically, the State will include as contingency measures reasonably available control technology (RACT) for volatile organic compounds (VOC) sources in the wood furniture coating, plastic parts coating, and industrial clean-up solvents source categories. In the event one or more of these measures is selected to be implemented as contingency measures, the State will adopt rules and submit them as a revision to the SIP. The State must submit this maintenance plan SIP revision before the EPA could take final action to approve its redesignation request. If approved, the section 175A maintenance plan would become a federally enforceable part of the SIP for this area. On March 15, 1996, the State submitted a supplement to the redesignation request qualifying that the

process by which a transport effected violation will be determined will include a public participation process and consultation with the EPA.

A detailed analysis of the redesignation request and section 175A maintenance plan SIP submittal for Grand Rapids is contained in the EPA's Technical Support Document (TSD), dated March 20, 1996, from Jacqueline Nwia to the Docket, entitled ''TSD for the Request to Redesignate the Grand Rapids, Michigan Moderate Nonattainment Area to Attainment for Ozone and the Proposed Revision to the Michigan Ozone SIP for a 175A Maintenance Plan,'' which is available from the Region 5 office listed above.

I. Background

The 1977 Clean Air Act required areas that were designated nonattainment, based on a failure to meet the ozone National Ambient Air Quality Standard (NAAQS), to develop SIPs with sufficient control measures to expeditiously attain and maintain the NAAQS. The Grand Rapids area was designated under section 107 of the 1977 Act as nonattainment with respect to the ozone NAAQS (43 FR 8962, March 3, 1978 and 43 FR 45993, October 5, 1978).

After enactment of the amended Act on November 15, 1990, the nonattainment designation of the Grand Rapids area continued by operation of law in accordance with section 107(d)(1)(C)(i) of the Act; furthermore, this area was classified by operation of law as moderate for ozone pursuant to section 181(a)(1) (56 FR 56694, November 6, 1991), codified at 40 CFR § 81.323.

The Grand Rapids area, more recently, has collected ambient monitoring data that show no violations of the ozone NAAQS during the period from 1992 through 1994. The area, therefore, became eligible for redesignation from nonattainment to attainment consistent with the Act. Quality assured data for 1995 shows that the area continues to monitor attainment. On March 9, 1995, Michigan requested redesignation of the area to attainment with respect to the ozone NAAQS and submitted a section 175A ozone maintenance SIP for the Grand Rapids area to ensure continued attainment of the ozone NAAQS. On April 10, 1995, Michigan held a public hearing on the maintenance plan component of the redesignation request. On May 1, 1995, Michigan submitted supplemental materials and technical materials to support the redesignation request, and evidence that the required opportunities for public comment were provided by the State on April 10, 1995. Public comments received during the State's public comment period and public hearing and the State's response to each are presented in Appendix B of Michigan's May 1, 1995, submittal. The EPA deemed the submittal complete on May 15, 1995. On January 24, 1996, the State submitted a letter advising EPA of its intent to revise the section 175A maintenance plan for Grand Rapids to incorporate 3 additional contingency measures. The State must submit this maintenance plan SIP revision before the EPA can take final action to approve its redesignation request. On March 15, 1996, the State submitted a supplement to the redesignation request qualifying that the process by which a transport effected violation will be determined will include a public participation process and consultation with the EPA. In order to accommodate these additional steps, the schedule for a final determination was extended from 30 days to 120 days.

II. Evaluation Criteria

The 1990 Amendments revised section 107(d)(3)(E) of the Act to provide five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment. Specifically, section 107(d)(3)(E) provides for redesignation if: (i) The Administrator determines that the area has attained the NAAQS; (ii) The Administrator has fully approved the applicable implementation plan for the area under section 110(k); (iii) The Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (iv) The Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (v) The State containing such area has met all requirements applicable to the area under section 110 and part D.

III. Review of State Submittal

The Michigan redesignation request for the Grand Rapids area will meet the five requirements of section 107(d)(3)(E), noted above, once the State submits the revision to the maintenance plan noted previously, as discussed in more detail below. Because the maintenance plan is a critical element of the redesignation request, EPA will discuss its evaluation of the maintenance plan under its analysis of the redesignation request.

1. The Area Must Have Attained the Ozone NAAQS

For ozone, an area is considered attaining the NAAQS if there are no violations, as determined in accordance with the regulation codified at 40 CFR § 50.9, based on three (3) consecutive calendar years of complete, quality assured monitoring data. A violation occurs when the ozone air quality monitoring data show greater than one (1) average expected exceedance per year at any site in the area at issue. An exceedance occurs when the maximum hourly ozone concentration exceeds 0.124 parts per million (ppm). The data should be collected and quality-assured in accordance with 40 CFR Part 58, and recorded in the Aerometric Information Retrieval System (AIRS) in order for it to be available to the public for review.

The redesignation request for the Grand Rapids area relies on ozone monitoring data for the years 1992 through 1994, to show that the area is meeting the NAAQS for ozone. The area must also demonstrate continued attainment until the area is redesignated to attainment, i.e. the area must also demonstrate attainment for the period 1993–1995.

Since the population of the urban area within the Grand Rapids nonattainment area is about 688,000, NAMS monitor specifications are applicable. NAMS requirements of 40 CFR Part 58, Appendix D specify that an area with a population of greater than 200,000 must have, at a minimum, two NAMS monitors, one urban and one neighborhood scale monitor. Since 1980, two NAMS monitors have operated in Kent County. These monitors, are cited according to EPA guidelines set forth in 40 CFR Part 58, Appendix D as follows; an urban scale monitor in Grattan township (26–081–2001), just northeast of the city of Grand Rapids urban area, measures the highest ozone concentrations resulting from ozone precursor emissions generated by the Grand Rapids urban area and a neighborhood scale monitor, just on the northeast limits of the city of Grand Rapids (26–081–0020), measures the population exposure to high ozone concentrations. Both monitors are situated in the direction of prevailing winds during the ozone season, i.e. southwest. The data from these monitors was the basis of the 1991 ozone nonattainment designation and moderate classification for Grand Rapids. Two exceedances of the ozone NAAQS have been monitored since 1992 in Kent County, both of these occurred at the Grand Rapids monitor (26–081–0020). At this site, the first

exceedance of 0.156 ppm occurred in 1993, and the second exceedance of 0.149 ppm occurred in 1994. Quality assured AIRS data was used to determine that the annual average expected exceedances for the years 1992, 1993, and 1994 for each monitor in Kent County is 0.7 and 0, both values less than 1.0. In addition, the area must demonstrate that it continues to attain the ozone NAAQS until the area is redesignated to attainment. Quality assured AIRS data for the period 1993–1995 demonstrates that the monitors in Kent County continue to attain the ozone NAAQS with an annual average expected exceedances for the years 1993, 1994, and 1995 for each monitor in Kent County is 1.0 and 0.3, both values less than or equal to 1.0.

In 1989, the State established an ozone monitor in Ottawa County, 26–139–0005 (Jenison), which operated through part of 1992. The Jenison site recorded two exceedances during each of the years 1989, 1990, and 1991. The monitor operated for 63 percent of the 1992 ozone season with no exceedances of the ozone NAAQS. Based on the Lake Michigan Ozone Study (LMOS) field study, which showed that higher ozone concentrations are recorded along the Lake Michigan shoreline, the State relocated the Jenison monitor to Holland, a lakeside urbanized area in Allegan County. However, the Allegan County monitor cannot be considered part of the Grand Rapids area since it is outside the two county area. In addition, two Special Purpose monitors, 26–139–0006 (Borculo) and 26–139–0007 (Holland) operated in Ottawa County during a portion of the 1991 ozone season as part of the LMOS field study. The Borculo and Holland monitors recorded 3 and 5 exceedances, respectively, during 1991. The State discontinued these monitors after the 1991 LMOS field study. At the encouragement of the EPA, the State reestablished a monitor in Ottawa County, i.e. the Jenison site, in 1994. NAMS monitoring specifications are not applicable in Ottawa County since it does not contain an urbanized area. The Jenison site will provide useful background ozone concentrations for the Grand Rapids urban area.

The EPA acknowledges that multiple exceedances of the ozone NAAQS were recorded at the various monitors in Ottawa county during 1989–1991. The redesignation, however, is based on the 3 year period 1992–1994. Consequently, monitoring data prior to 1992 would not be taken into account in the determination of attainment. The Jenison site has partial 1992 data, and complete data for 1994 and 1995. No exceedances of the ozone NAAQS were recorded at the Jenison monitor during its operation in 1992 or 1994 and one exceedance was recorded in 1995 at 0.133 ppm. The January 1979 document entitled *Guideline for the Interpretation of Ozone Air Quality Standards* (p. 13) suggests that evaluating ozone data requires the use of all ozone data collected at the site during the past 3 calendar years. If no data are available for a particular year then the remaining years are used. Consequently, since 1992 data for this monitor is incomplete and 1993 data is unavailable for this monitor, it would suffice to use ozone monitoring data for the remaining most recent calendar years, i.e. 1994–1995. Therefore, for the years 1994–1995, the Ottawa County monitor, Jenison, demonstrates attainment of the ozone NAAQS with an average number of expected exceedances of 0.5, a value less than 1.0. The EPA, therefore, believes that the more recent monitoring data for Ottawa county demonstrates that the area is attaining the ozone NAAQS.

In summary, the Grand Rapids area's 1991 nonattainment designation and moderate classification was based on the two monitors in Kent County which have complete quality assured data for the periods 1992–1994 and 1993–1995 demonstrating attainment of the NAAQS. Although multiple exceedances of the ozone NAAQS were recorded in Ottawa County in 1989–1991, more recent monitoring data demonstrates an improvement in air quality and even attainment of the ozone NAAQS.

Since the annual average number of expected exceedances for each monitor during the most recent three years is equal to or less than 1.0, at all monitors in the Grand Rapids area, the area has attained the NAAQS.

Because the Grand Rapids area has complete quality-assured data showing no violations of the standard over the most recent consecutive three calendar year period, the Grand Rapids area has met the first statutory criterion of attainment of the ozone NAAQS. The State has committed to continue monitoring in this area in accordance with 40 CFR part 58.

2. The Area Must Have a Fully Approved SIP Under Section 110(k); and the Area Must Have Met All Applicable Requirements Under Section 110 and Part D.

Before the Grand Rapids area may be redesignated to attainment for ozone, it must have fulfilled the applicable requirements of section 110 and part D. The memorandum from John Calcagni, September 4, 1992, *Procedures for Processing Requests to Redesignate Areas to Attainment* (September Calcagni) state that areas requesting redesignation to attainment had to fully adopt rules and programs that come due prior to the submittal of a complete redesignation request. If unimplemented, these rules/programs may be rolled over into the area's maintenance plan as contingency measures. As described below in the section of this notice addressing VOC RACT rules, however, the EPA is allowing an exception to this policy. While all requirements that come due prior to the submission of the redesignation request remain applicable requirements, the EPA believes it appropriate, in this instance, to allow an exception to policy to provide that the requirement for certain VOC RACT rules may be complied with simply through their incorporation among the contingency measures in the maintenance plan. For reasons described later in this action, these measures need not be fully adopted and approved prior to redesignation. Furthermore, requirements of the Act that come due subsequent to the area's submittal of a complete redesignation request would continue to be applicable to the area (*see* section 175A(c)) until a redesignation is approved, but not required as a prerequisite for redesignation. If the redesignation is disapproved, the State remains obligated to fulfill those requirements.

Section 110 Requirements

General SIP elements are delineated in section 110(a)(2) of Title I, part A. These requirements include but are not limited to the following: submittal of a SIP that has been adopted by the State after reasonable notice and public hearing, provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality, implementation of a permit program, provisions for Part C (Prevention of Significant Deterioration (PSD)) and D (New Source Review (NSR)) permit programs, criteria for stationary source emission control measures, monitoring, and reporting, provisions for modeling, and provisions for public and local agency participation. For purposes of redesignation, the Michigan SIP was reviewed to ensure that all requirements under the amended Act were satisfied. On May 6, 1980 (45 FR 29801) and February 7, 1985 (50 FR 5250), the EPA fully approved Michigan's SIP as meeting the requirements of section 110(a)(2) and part D of the 1977 Act

with the exception that Michigan must meet the part D RACT requirements for the ozone SIP. See 40 CFR 52.1172. Michigan submitted, and the EPA approved into the SIP, all part D VOC RACT requirements for the ozone SIP.

Although section 110 of the Act was amended in 1990, the Grand Rapids area SIP meets the requirements of amended section 110(a)(2). A number of the requirements did not change in substance and, therefore, EPA believes that the pre-amendment SIP met these requirements. As to those requirements that were amended (57 FR 27936 and 27939, June 23, 1992) many are duplicative of other requirements of the Act. The EPA has analyzed the SIP and determined that it is consistent with the requirements of amended section 110(a)(2).

Part D Requirements

Under part D, an area's nonattainment classification determines the requirements to which it is subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under table 1 of section 181(a). As described in the General Preamble for the Implementation of Title 1, specific requirements of subpart 2 may override subpart 1's general provisions (57 FR 13501, April 16, 1992). The Grand Rapids area was classified as moderate (56 FR 56694, November 6, 1991), codified at 40 CFR 81.323. Therefore, in order to be redesignated, the State must meet the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176, as well as the applicable requirements of subpart 2 of part D that apply to moderate areas such as Grand Rapids.

(a) Section 172(c) Requirements

Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under section 172(b), the section 172(c) requirements are applicable as determined by the Administrator, but must be met no later than 3 years after an area has been designated as nonattainment under the amended Act. Furthermore, as noted above, some of these section 172(c) requirements are superseded by more specific requirements in subpart 2 of part D. In the case of the Grand Rapids area, the State has satisfied all of the section 172(c) requirements necessary for these areas to be redesignated.

For moderate ozone nonattainment areas, the section 172(c)(1) Reasonably Available Control Measures requirement was superseded by section 182(a)(2) RACT requirements. Section 182(a)(2) requires moderate ozone nonattainment areas that were previously designated nonattainment to submit RACT corrections. *See* General Preamble for the Implementation of Title I, 57 FR at 13503. The VOC RACT fix-up SIP was fully approved on September 7, 1994 (59 FR 46182).

Since the Grand Rapids area has attained the ozone NAAQS, the Reasonable Further Progress (RFP) requirement is no longer relevant. A May 10, 1995 memorandum from John Seitz to Regional Division Directors entitled *Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the National Ambient Air Quality Standard* indicates that the RFP, attainment demonstration and 179(c)(9) contingency measure SIPs would not be required for approval of a redesignation request for those areas which the EPA determines have attained the ozone NAAQS. The EPA made such determinations for the Grand Rapids area on July 20, 1995 (60 FR 37366) which also halted the sanctions clocks started January 21, 1994, for the 15 percent plans (RFP) and 179(c)(9) contingency measures. Also, see General Preamble for Implementation of Title I, 57 FR at 13564.

The section 172(c)(3) emission inventory requirement has been met by the State's submission and EPA's approval on July 26, 1994, of the 1990 base year emission inventory required by section 182(a)(1). See 59 FR 37944.

As for the section 172(c)(5) NSR requirement, the EPA has determined that areas being redesignated need not comply with the NSR requirement prior to redesignation provided that the area demonstrates maintenance of the NAAQS without part D NSR in effect. A memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled *Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,* fully describes the rationale for this view, and is based on the Agency's authority to establish de minimis exceptions to statutory requirements. *See Alabama Power Co.* v. *Costle,* 636 F. 2d 323, 360–61 (D.C. Cir. 1979). As discussed below, the State of Michigan has demonstrated that the Grand Rapids area will be able to maintain the NAAQS without part D NSR in effect and, therefore, the State need not have a fully-approved part D NSR program prior to approval of the redesignation request for Grand Rapids. Once the area is redesignated to attainment, the PSD program, which has been delegated to Michigan, will become effective immediately. The PSD program was delegated to Michigan on September 10, 1979, and amended on November 7, 1983, and September 26, 1988.

The section 172(c)(9) contingency measures requirements also are no longer relevant since the Grand Rapids area has attained the ozone NAAQS and is no longer subject to RFP requirements. These contingency measures are intended to be applied only if the area fails to meet an RFP milestone or fails to attain the ozone NAAQS; the Grand Rapids area no longer has RFP milestones and has already attained the NAAQS. A May 10, 1995, memorandum from John Seitz to Regional Division Directors entitled *Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the National Ambient Air Quality Standard* indicates that the RFP, attainment demonstration and 179(c)(9) contingency measure SIPs would not be required for approval of a redesignation request for those areas which the EPA determines have attained the ozone NAAQS. The EPA made such determinations for the Grand Rapids area on July 20, 1995, (60 FR 37366) which also halted the sanctions clocks started January 21, 1994, for the 15 percent plans (RFP) and 179(c)(9) contingency measures. Section 175A contingency measures, however, still apply.

Finally, for purposes of redesignation, the Michigan SIP was reviewed to ensure that all requirements of section 110(a)(2), containing general SIP elements, were satisfied. As noted above, the EPA believes the SIP satisfies all of those requirements.

(b) Section 176 Conformity Requirements

Section 176(c) of the Act requires States to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. or the Federal Transit Act (''transportation conformity''), as well as to all other Federal actions (''general conformity''). Section 176 further provides that the conformity revisions to be submitted by the States must be consistent with Federal conformity regulations that the Act required the EPA to promulgate. Congress provided

for the State revisions to be submitted one year after the date of promulgation of final EPA conformity regulations.

The EPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188), and general conformity regulations on November 30, 1993 (58 FR 63214). These conformity rules require that States adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under section 175A of the Act. Pursuant to 40 CFR 51.396 of the transportation conformity rule and 40 CFR section 51.851 of the general conformity rule, the State of Michigan is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994, and November 30, 1994, respectively. Michigan submitted transportation and general conformity SIP revisions on November 24, 1994 and November 29, 1994, respectively. The EPA has not yet approved these rules as part of the SIP.

Although this redesignation request was submitted to EPA after the due dates for the SIP revisions for transportation conformity and general conformity rules, the EPA believes it is reasonable to interpret the conformity requirements as not being applicable requirements for purposes of evaluating the redesignation request under section 107(d). The rationale for this is based on a combination of two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the Act continue to apply to areas after redesignation to attainment, since such areas would be subject to a section 175A maintenance plan. Therefore, the State remains obligated to adopt the transportation and general conformity rules even after redesignation and would risk sanctions for failure to do so. While redesignation of an area to attainment enables the area to avoid further compliance with most requirements of section 110 and part D, since those requirements are linked to the nonattainment status of an area, the conformity requirements apply to both nonattainment and maintenance areas. Second, EPA's federal conformity rules require the performance of conformity analyses in the absence of state-adopted rules. Therefore, a delay in adopting State rules does not relieve an area from the obligation to implement conformity requirements.

Because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under Federal rules if State rules are not yet adopted, the EPA believes it is reasonable to view these requirements as not being applicable requirements for purposes of evaluating a redesignation request.

For the reasons just discussed, the EPA believes that the ozone redesignation request for the Grand Rapids area may be approved notwithstanding the lack of fully approved State transportation and general conformity rules. This policy was also exercised in the Tampa, Florida ozone redesignation finalized on December 7, 1995 (60 FR 62748).

(c) Subpart 2 Requirements

Grand Rapids is a moderate ozone nonattainment area and is subject to the section 182(a), 182(b) and 182(f) requirements. Under subpart 2, Grand Rapids is required to have met the requirements of section 182(a)(1), (2), and (3), section 182(b)(1), (2), (3), and (4), and section 182(f). The following discussion describes each of these requirements.

The emission inventory required by section 182(a)(1) was approved on July 26, 1994 (59 FR 37944). The RACT corrections required by section 182(a)(2)(A) were approved on September 7, 1994, and the section 182(a)(2)(B) motor vehicle inspection and maintenance (I/M) requirement is superseded by the section 182(b)(4) requirement discussed below. The emission statement SIP required by section 182(a)(3)(B) was approved on March 8, 1994 (59 FR 10752).

The RFP and attainment demonstration requirements of section 182(b)(1) are no longer applicable, as noted previously, since the area has attained the ozone NAAQS.[1]

Section 182(b)(2)(A) of the Act requires States to develop RACT rules for sources ''covered by a CTG document issued by the Administrator between November 15, 1990, and the date of attainment'' for moderate and above ozone nonattainment areas. With Appendix E of the General Preamble, EPA published a CTG document setting a timetable for the adoption, submittal, and implementation of certain newly-listed CTG source categories. (57 FR 13513, April 16, 1992; 57 FR 18077, April 28, 1992.) Appendix E provided that if EPA did not issue CTGs for those source categories by November 15, 1993, States were to submit RACT rules for those source categories by November 15, 1994, which were to be implemented by November 15, 1995.

The Grand Rapids area contains sources in three (Plastic Parts Coating, Wood Furniture Coating and Industrial Clean-up Solvents) of the source categories subject to the deadlines established in Appendix E. As EPA did not issue CTGs covering those source categories, the due date for the submission of RACT rules for those source categories was November 15, 1994, a date preceding the submission of the redesignation request for Grand Rapids.

Under EPA's policy regarding redesignations, since the due date for the CTG RACT rules at issue preceded the submission of the redesignation request, EPA would require full adoption, submission and approval of these rules prior to approval of the redesignation request. EPA believes, however, that, in the context of the particular circumstances of this redesignation, that it is permissible to depart from that policy and instead accept a commitment to implement these RACT rules as contingency measures in the maintenance plan rather than require full adoption and approval of the rules prior to approval of the redesignation. The State of Michigan has submitted a letter to EPA indicating its intent to revise the Grand Rapids maintenance plan so as to include a commitment to adopt and implement these RACT rules as contingency measures and, provided that the State completes its proposed revision to the maintenance plan, EPA may take final action to approve the Grand Rapids redesignation. The reasons justifying this exception to EPA's general policy are explained below.

EPA believes that several factors in combination justify this approach with respect to the Grand Rapids redesignation. First, the RACT rules at issue in this redesignation proceeding came due after the end of the ozone season in which Grand Rapids attained the standard and were not needed to bring about attainment of the standard in Grand Rapids. Second, the State has demonstrated continued maintenance of the ozone standard through 2007 without the implementation of these measures. Third, the State has placed other contingency measures in the

[1] A May 10, 1995 memorandum from John Seitz to Regional Division Directors entitled *Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the National Ambient Air Quality Standard* indicates that the RFP, attainment demonstration and 179(c)(9) contingency measure SIPs would not be required for approval of a redesignation request for those areas which the USEPA determines have attained the ozone NAAQS. The USEPA made such determinations for the Grand Rapids area on July 20, 1995 (60 FR 37366) which also concluded the sanctions process started January 21, 1994 for the 15 percent plans (RFP) and 179(c)(9) contingency measures.

maintenance plan that would bring about far greater emission reductions than the RACT rules and would therefore be substantially more effective in terms of correcting violations attributable to local emissions from the Grand Rapids area that may occur after redesignation. As presented in more detail in the EPA's March 20, 1996 TSD, an analysis of emission reduction estimates, at various time intervals, shows that the implementation of enhanced I/M, Stage II or low Reid Vapor Pressure (RVP) (to 7.8 psi) programs would bring about greater reductions than VOC RACT rules for wood furniture coating, plastic parts coating and industrial clean-up solvents in aggregate, and substantially greater reductions than any of these RACT rules individually. As a consequence, EPA believes that the other, more effective contingency measures, should and would be implemented first even if the RACT rules were to be fully adopted prior to redesignation.

EPA emphasizes that even under the exception to its policy proposed herein, the requirement for these RACT rules remains an applicable requirement for purposes of evaluating the redesignation request since it predated the submission of the request. The requirement, however, would be met in the form of the submission and full approval of a commitment to adopt and implement these rules as contingency measures in the maintenance plan. (Under EPA's existing policy, contingency measures in maintenance plans may consist of commitments to adopt and implement measures upon a violation of the standard. See September Calcagni Memorandum.)

EPA further notes that even without this exception to its general policy, the State would have been able to have the RACT rules become a part of the contingency measures in the maintenance plan upon approval of the redesignation. That could have occurred only after or upon EPA's full approval of the adopted RACT rules, however. Thus, the only difference between EPA's general policy and the exception to that policy described in this proposal is that a commitment to adopt and implement the RACT rules in an expeditious manner, rather than fully-adopted RACT rules, would be among the contingency measures in the maintenance plan. In light of the combination of factors discussed above, including in particular the presence of other, significantly more effective, contingency measures in the maintenance plan, EPA believes that this difference has no significant environmental consequence and that it is permissible to approve the Grand Rapids redesignation on this basis.

The VOC RACT requirements of section 182(b)(2)(B) and (C) were approved on September 7, 1994 (59 FR 46182) and October 23, 1995 (60 FR 54308)[2]. The section 182(b)(3) Stage II gasoline vapor recovery was also an applicable requirement. However, the ''onboard rule''[3] was published on April 6, 1994, and section 202(a)(6) of the Act provides that once onboard rules are promulgated, Stage II gasoline vapor recovery will no longer be a requirement. The motor vehicle I/M requirement to satisfy section 182(b)(4) for the Grand Rapids area was approved on October 11, 1994 (59 FR 51379). The State need not comply with the requirements of section 182(a) and 182(b) concerning revisions to the part D NSR program in order for the Grand Rapids area to be redesignated for the reasons explained above in connection with the discussion of the section 172(c)(5) NSR requirement. With respect to the section 182(f) oxides of nitrogen (NO_x) requirements, on July 13, 1994, Michigan submitted, along with Illinois, Indiana and Wisconsin, a section 182(f) NO_X petition to be relieved of the section 182(f) NO_X requirements based on urban airshed modeling (UAM). The modeling demonstrates that NO_X emission reductions would not contribute to attainment of the NAAQS for ozone in the modeled area, which includes Grand Rapids. Refer to section 182(f)(1)(A) of the Act. The EPA approved the section 182(f) petition on January 26, 1996 (61 FR 2428) in a final rulemaking action.

Michigan has presented an adequate demonstration that the State has met all the requirements applicable to the area under section 110 and part D. The final approval of this redesignation request is contingent on the State's submittal of a revision to the SIP incorporating into the maintenance plan, a commitment to adopt and implement the relevant section 182(b)(2)(A) VOC RACT rules as contingency measures.

[2] The USEPA also notes that the Synthetic Organic Chemical Manufacturing Industry (SOCMI) Distillation and Reactor CTG was issued on November 15, 1993, prior to the submission of the Grad Rapids redesignation request. That CTG, however, established a due date for State submittal of the SOCMI Distillation and Reactor rules of March 23, 1995 (See March 23, 1994, 59 FR 13717), a date after submission of a request to redesignate Grand Rapids to attainment. Thus, those rules are not applicable requirements for purposes of this redesignation.

[3] The rule which was published by the USEPA on April 6, 1994 requires a vehicle based (onboard) system for the control of vehicle refueling emissions.

3. The Improvement in Air Quality Must Be Due to Permanent and Enforceable Reductions in Emissions Resulting From the SIP, Federal Measures and Other Permanent and Enforceable Reductions

Michigan maintains that the Grand Rapids area is the recipient of overwhelming amounts of ozone transported from the upwind Gary-Chicago-Milwaukee severe nonattainment areas as demonstrated by their November 14, 1994 petition.[4] The overwhelming transport demonstration includes UAM which shows that there is minimal to no change in ozone concentrations in the two Western Michigan areas even when the Grand Rapids and Muskegon VOC and NO_X emissions are entirely eliminated. The State, therefore, concluded that emission reductions within the Grand Rapids and Muskegon areas would have little or no impact on ozone concentrations within these two areas. The State maintains that the improvement in air quality in Grand Rapids is largely due to emission reductions achieved throughout the Lake Michigan region.

Nonetheless, the redesignation request demonstrates that permanent and enforceable emission reductions have occurred in the Grand Rapids area as a result of the Federal Motor Vehicle Emission Control Program (FMVCP). The submittal provides a general discussion of the development of the emission inventories for ozone precursors, VOC and NO_X, from 1991–1996 which were prepared by the Lake Michigan Air Directors Consortium (LADCO) for use in the Lake Michigan Ozone Study (LMOS). Although 1991 was not one of the years used to designate and classify the area, it was a nonattainment year. The VOC and NO_X emission inventories for the years 1991 and 1996 submitted by the State show a declining trend in emissions. Based on this declining trend, it may be deduced that the VOC and NO_X emissions from 1991 were at least equal to or lower than those of the design value year. This would demonstrate that the test of permanent and enforceable emission reductions from 1991 is at least equal to or more stringent than that from the design value year to an attainment year. With this, the EPA believes that the use of a 1987–1989 emission inventory for Grand Rapids would not have affected the conclusion that reductions in emissions from permanent and

[4] Consistent with USEPA's September 1, 1994, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, entitled Ozone Attainment Dates for Areas Affected by Overwhelming Transport.

enforceable programs have contributed to improvements in air quality in the area and proposes to accept 1991 as the nonattainment year for purposes of demonstrating permanent and enforceable emission reductions.

A 1996 emission inventory is provided as the attainment year emission inventory. The State maintains that the differential between the 1996 and 1994 emissions inventories for the purpose of demonstrating permanent and enforceable emission reductions is inconsequential. Michigan states that the 1996 emission inventory will further hold the State to a more stringent inventory for general and transportation conformity purposes. Although this may be true, future year emission reductions from FMVCP, and Title IV Phase I NO_x controls which were not implemented during the years used to demonstrate attainment of the ozone NAAQS, i.e. 1992–1994, cannot be included as permanent and enforceable emission reductions since those reductions have not yet occurred. Consequently, the EPA prepared 1994 emission inventories for the Grand Rapids area based on the emission inventories and documentation submitted by the State with the redesignation request.

Based on EPA's analysis, VOC emissions were reduced by 0.6 tons (0.4 percent) and NO_x emissions were reduced by 2.4 tons (1.1 percent) per day in Grand Rapids between 1991 and 1994. The emission reductions are due to FMVCP.

4. The Area Must Have a Fully Approved Maintenance Plan Meeting the Requirements of Section 175A

Section 175A of the Act sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan is a SIP revision which provides for maintenance of the relevant NAAQS in the area for at least 10 years after redesignation to attainment. The September Calcagni memorandum regarding redesignation provides further guidance on the required content of a maintenance plan.

An ozone maintenance plan should address the following five elements: the attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment and a contingency plan. The attainment emissions inventory identifies the emissions level in the area which is sufficient to attain the ozone NAAQS, and includes emissions during the time period which had no monitored violations. Maintenance is demonstrated by showing that future emissions will not exceed the level established by the attainment inventory. Provisions for continued operation of an appropriate air quality monitoring network are to be included in the maintenance plan. The State must show how it will track and verify the progress of the maintenance plan. Finally, the maintenance plan must include contingency measures which ensure prompt correction of any violation of the ozone NAAQS. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates attainment for the 10 years following the initial 10-year period. See section 175A(b) of the Act.

The State has submitted an attainment emission inventory for 1996 that identifies 160 tons of VOC and 203 tons of NO_x per day as the level of emissions in the area sufficient to attain the ozone NAAQS in the Grand Rapids area. The 1996 attainment inventory was based on an inventory of VOC and NO_x emissions from area, stationary, and mobile sources for 1991. The September Calcagni memorandum states that generally the attainment inventory would be the inventory at the time the area attained the NAAQS and should include the emissions during the time period associated with the monitoring data showing attainment. Under a strict interpretation of this policy, the 1996 emission inventory presented by the State would not qualify as an attainment year inventory. A comparison of the 1994 (an attainment year) emission inventory prepared by the EPA and the 1996 emission inventory submitted by the State and found the emission differential to be 0.25 percent for VOC and 6.21 percent for NO_x for Grand Rapids. Considering the small differential and the fact that the 1996 emission inventory would hold the Grand Rapids area to a more stringent attainment emission inventory due to the declining trend and additional VOC and NO_x emission reductions accounted for in the 1996 emission inventory, the EPA proposes to accept the 1996 emission inventory as the attainment year inventory.

The 1991 emission inventory developed by LADCO for the LMOS modeling effort also served as the basis for calculations to demonstrate maintenance by projecting emissions forward to the years 1996 and 2007. The 1991 nonattainment year emission inventory represents hot summer weekday actual emissions for the Grand Rapids area. Point and area projections are based on growth factors extracted from the EPA's Economic Growth Analysis System and supplemental information used in the development of emission projections. Point source growth factors for utilities were based on source specific data provided by the utility companies. Area source growth factors were supplemented with population and gasoline sales/marketing data. The stationary source emission estimates (point and area) were developed using the geocoded emissions modeling and projections system (GEMAP). GEMAP employs projection methodologies equivalent to those in the EPA's Emissions Projections System. In developing the mobile source emission estimates, the MOBILE5a model was used with day specific temperatures (for June 26, 1991). The input parameters for the MOBILE5a model are provided in Appendix D of the submittal. The gasoline RVP used for all inventories was 9.0 pounds per square inch (psi). The methodologies employed in developing the on-highway mobile source emissions included the Federal Highway Administration highway performance monitoring system (HPMS) traffic count for 1991 vehicle miles traveled (VMT), supplemental traffic count data obtained from the Michigan Department of Transportation, projection of VMT to projection years using a transportation model calibrated with HPMS VMT data, MOBILE5a emission factors and estimating emissions with modeled VMT and MOBILE5a.

The EPA's TSD prepared for the redesignation request contains additional details regarding the emission inventories for the Grand Rapids area for all the analyses described within this notice. It should be noted that use of the emission inventories prepared by LADCO within this redesignation request and SIP revision does not constitute approval of the emission inventories or methodologies for all the States participating in the Lake Michigan Ozone Study, particularly for purposes of UAM modeling.

In order to demonstrate continued attainment, the State projected anthropogenic 1991 emissions of VOC and NO_x to the years 1996 and 2007. These emission estimates are presented in the tables below and demonstrate that the VOC and NO_x emissions will decrease in future years. The results of this analysis show that the area is expected to maintain the air quality standard for at least ten years into the future. In fact, the emissions projections through the year 2007 show that emissions will be reduced from 1996 levels by 10 tons of VOC and 6 tons of NO_x per day by 2007 in the Grand Rapids area. These emission reductions would be the result of the implementation of FMVCP, on-board

vapor recovery, Title IV NO_x controls, and other Federal rules expected to be promulgated for nonroad engines, autobody refinishing, commercial/consumer solvents, and architectural and industrial maintenance coatings.

TABLE 1. GRAND RAPIDS: VOC MAINTENANCE EMISSION INVENTORY SUMMARY

[Tons per day]

	1991	1996	2001 [1]	2007
Point	39	41	44	48
Area	58	62	57	51
Mobile	64	57	54	51
Total	161	160	155	150

[1] These estimates were developed by the USEPA based on a linear interpolation between 1996 and 2007.

TABLE 2. Grand Rapids: NO_x Maintenance Emission Inventory Summary

[Tons per day]

	1991	1996	2001[1]	2007
Point	126	115	117	120
Area	31	32	29	26
Mobile	61	56	54	51
Total	218	203	200	197

[1] These estimates were developed by the USEPA based on a linear interpolation between 1996 and 2007.

The emission projections show that the emissions are not expected to exceed the level of the base year 1996 inventory during the 10-year maintenance period.

To demonstrate maintenance out to the year 2007 following redesignation, the State did not rely on a certain SIP-approved measure. The State now requests that this measure (discussed below) be moved from the applicable SIP into the maintenance plan as a contingency measure.

The State has demonstrated maintenance without an I/M program. This required SIP submittal is fully adopted and fully approved into the SIP. However, since the State has demonstrated attainment and maintenance without this program, this measure can be incorporated into the area's maintenance plan as a contingency measure. See September 17, 1993, memorandum from Michael Shapiro, Acting Assistant Administrator for Air and Radiation, entitled *SIP Requirements for Areas Submitting Request for Redesignation to Attainment of the Ozone and Carbon Monoxide NAAQS on or after November 15, 1992.* Since the Grand Rapids area has demonstrated that it can maintain the standard without implementation of this program, EPA proposes that the maintenance plan be approved with this element as a contingency measure.

Continued attainment of the ozone NAAQS in the Grand Rapids area depends, in part, on the State's efforts toward tracking indicators of continued attainment during the maintenance period. The tracking plan for the Grand Rapids area consists of continued ambient ozone monitoring. To demonstrate ongoing compliance with the NAAQS, Michigan will continue to monitor ozone levels throughout the Grand Rapids area in accordance with the requirements of 40 CFR part 58 as necessary to demonstrate ongoing compliance with the NAAQS.

Michigan contends that the high concentrations of ozone monitored and modeled in the Grand Rapids area are due to transport from upwind areas such as Chicago and Milwaukee. The State also submits that preliminary modeling to date indicates that total elimination of anthropogenic VOC and NO_X emission sources in Grand Rapids would not significantly affect ozone concentrations in the area. The State concludes that continued maintenance of the ozone NAAQS is dependent on continued emission reductions from upwind areas. Consequently, the State identifies an actual monitored ozone violation of the NAAQS, as defined in 40 CFR § 50.9, determined not to be attributable to transport from upwind areas, as the triggering event that will cause implementation of a contingency measure. The State's March 15, 1996, supplement to the redesignation request qualifies, that as such, if a violation is monitored, the State will inform EPA that a violation has occurred, review data for quality assurance, and conduct a technical analysis including an analysis of meteorological conditions leading up to and during the exceedances contributing to the violation to determine local culpability. The State will submit a preliminary analysis to the EPA and afford the public the opportunity for review and comment. The State will also solicit and consider EPA's technical advice and analysis before making a final determination on the cause of the violation. The trigger date will be the date that the State certifies to the EPA that the air quality data are quality assured, and that the exceedances contributing to the violation are determined not to be attributable to transport from upwind areas which will be no later than 120 days after the violation is monitored.

In the event, the EPA disagrees with the State's final determination and believes that the violation was not attributable to transport, but to the area's own emissions, authority exists under section 179(a) and 110(k), to require the area to implement contingency measures, and section 107, to redesignate the area to nonattainment. In addition, the redesignation of the Grand Rapids area to attainment, in no way removes the State's obligation to get further reductions in emissions to address the broader transport phenomenon, which is being investigated as part of the Ozone Transport Assessment Group (OTAG) process.

The level of VOC and NO_X emissions in the Grand Rapids area and region wide will largely determine its ability to stay in compliance with the ozone NAAQS in the future. Despite the best efforts to demonstrate continued

compliance with the NAAQS, the ambient air pollutant concentrations may exceed or violate the NAAQS. Therefore, as required by section 175A of the Act, Michigan has provided contingency measures with a schedule for implementation in the event of a future ozone air quality problem. Once the triggering event, a violation of the ozone NAAQS determined not to be attributable to transport from upwind areas, is confirmed, the State will implement one or more appropriate contingency measure. The contingency measure will be selected by the Governor or the Governor's designee within 6 months of a triggering event, a monitored violation determined not to be attributable to transport. Contingency measures contained in the plan include a motor vehicle I/M program, gasoline RVP reduction to 7.8 pounds per square inch (psi), and Stage II gasoline vapor recovery. Legislative authority for implementation of these measures as contingency measures in maintenance areas has been provided by the State. In addition, the State intends to add three additional measures as contingency measures, namely, a commitment to adopt and implement VOC non-CTG RACT rules for plastic parts coating, wood furniture coating and clean-up solvents, should they be necessary to address a violation of the ozone NAAQS. The State is in the process of revising the maintenance plan SIP revision which must be submitted to the EPA before the EPA can take final action to redesignate the area to attainment. The following schedule is provided by the State for implementation of I/M, 7.8 psi RVP, and Stage II as contingency measures:

TABLE 3.—SCHEDULE FOR CONTINGENCY MEASURE IMPLEMENTATION

Measure	Date
Stage II	6 months from decision to employ Stage II or 12 months from triggering event at gasoline dispensing facilities of any size constructed after November 15, 1990. 12 months from decision to employ Stage II or 18 months from triggering event at existing gasoline dispensing facilities dispensing 100,000 gallons of gasoline per month. 24 months from decision to employ Stage II or 30 months from triggering event at existing gasoline dispensing facilities dispensing less than 100,000 gallons of gasoline a month.
Vehicle emissions testing will commence.	24 months from decision to employ I/M or 30 months from triggering event.
Implement 7.8 RVP gasoline during summer ozone season.	No later than 12 months after decision to employ 7.8 RVP or no later than 18 months from triggering event.

The EPA finds that the contingency measures provided for in the State submittals, including the commitment to adopt and implement VOC non-CTG RACT rules for plastic parts coating, wood furniture coating and clean-up solvents, meet the requirements of section 175A(d) of the Act since they would promptly correct any violation of the ozone NAAQS attributable to the area's own emissions.

In accordance with section 175A(b) of the Act, the State has committed to submit a revised maintenance SIP 8 years after the area is redesignated to attainment. Such revised SIP will provide for maintenance for an additional 10 years.

Urban Airshed Modeling

The EPA acknowledges that the Lake Michigan States of Michigan, Wisconsin, Illinois and Indiana are conducting UAM which is being coordinated by LADCO. The modeling will be used for purposes of demonstrating attainment throughout the Lake Michigan region. Preliminary modeling results indicate that the Grand Rapids area is the recipient of transported ozone and that the area may contribute to ozone concentrations in downwind areas. The modeling, however, is not complete and is being further refined. The EPA recognizes the importance of the modeling effort and subsequent results. The EPA would like to note that the Lake Michigan States are participating in the OTAG process (Phase I/Phase II analysis) as provided for within the March 2, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, entitled *Ozone Attainment Demonstrations.* Phase II of the analysis will assess the need for regional control strategies and refine the local control strategies. Phase II will also provide the States and EPA the opportunity to determine appropriate regional strategies to resolve transport issues including any impacts the Grand Rapids area may have on ozone concentrations in its downwind areas. The EPA has the authority under sections 126 and/or 110 of the Act to ensure that the required and necessary reductions are achieved in the Grand Rapids area should subsequent modeling become available such as the modeling that will be available through completion of the Phase II analysis, or any other subsequent modeling data.

IV. Proposed Action

The EPA proposes to approve the Grand Rapids redesignation request and ozone maintenance plan as a SIP revision meeting the requirements of section 175A once the States submits a revision to the maintenance plan for Grand Rapids to incorporate the three additional contingency measures, pursuant to the State's January 24, 1996, letter. In addition, the EPA is proposing approval of the redesignation request for the Grand Rapids areas, subject to final approval of the maintenance plan, because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation pending full approval of the maintenance plan SIP revision previously noted.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Ozone SIPs are designed to satisfy the requirements of part D of the Act and to provide for attainment and maintenance of the ozone NAAQS. This proposed redesignation should not be interpreted as authorizing the State to delete, alter, or rescind any of the VOC or NO_X emission limitations and restrictions contained in the approved ozone SIP. Changes to ozone SIP VOC regulations rendering them less stringent than those contained in the EPA approved plan cannot be made unless a revised plan for attainment and maintenance is submitted to and approved by EPA. Unauthorized relaxations, deletions, and changes could result in both a finding of nonimplementation [section 173(b) of the Act] and in a SIP

deficiency call made pursuant to section 110(a)(2)(H) of the Act.

This action has been classified as a Table 3 Action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995, memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Under the Regulatory Flexibility Act, 5 U.S.C. section 600 et seq, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. section 603 and 604.) Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') (signed into law on March 22, 1995) requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this proposed rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

The SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIP's on such grounds. *Union Electric Co.* v. *U.S.E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. section 7410(a)(2).

Redesignation of an area to attainment under Section 107(d)(3)(E) of the Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. The Administrator certifies that the approval of the redesignation request will not affect a substantial number of small entities.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Motor vehicle pollution, Nitrogen oxides, Ozone, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7671q.
Dated: March 22, 1996.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 96–8004 Filed 4–1–96; 8:45 am]

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40 CFR Part 59

[AD–FRL–5451–7]

RIN 2060–AF62

National Volatile Organic Compound Emission Standards for Consumer Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would reduce emissions of volatile organic compounds (VOC) from certain categories of consumer products. The proposed standards implement Section 183(e) of the Clean Air Act (CAA) and are based on the Administrator's determination that VOC emissions from the use of consumer products can cause or contribute to ozone levels that violate the national ambient air quality standards (NAAQS) for ozone. Ozone is a major component of smog which causes negative health and environmental impacts when present in high concentrations at ground level. These proposed standards would reduce VOC emissions by 90,000 tons per year, by requiring manufacturers, importers, and distributors to limit the VOC content of consumer products. The proposed requirements were developed in consultation with major stakeholders and are largely consistent with a proposal by representatives of the affected industry and are similar to existing standards in certain States. To date, many companies have taken steps to reformulate their products to emit less VOCs.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards for consumer products.

DATES: *Comments.* Comments must be received on or before June 3, 1996.

Public Hearing. Anyone requesting a public hearing must contact the EPA no later than May 2, 1996. If a hearing is held, it will take place on May 17, 1996, beginning at 10:00 a.m.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–95–40, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The EPA requests that a separate copy also be sent to the contact person listed below.

The docket is located at the above address in Room M1500, Waterside Mall (ground floor), and may be inspected from 8:00 a.m. to 5:30 p.m., Monday through Friday; telephone number (202) 260–7548, FAX (202) 260–4400. A reasonable fee may be charged for copying docket materials.

Public Hearing. If anyone contacts the EPA requesting a public hearing by the required date (see **DATES**), the hearing will be held at the EPA Office of Administration Auditorium in Research Triangle Park, North Carolina 27711. Persons interested in presenting

testimony or attending the hearing should contact Ms. Kim Teal at (919) 541–5580.

A verbatim transcript of the hearing and any written statements will be available for public inspection and copying during normal working hours at the EPA's Air and Radiation Docket in Washington, DC (see **ADDRESSES** section of this preamble).

FOR FURTHER INFORMATION CONTACT: For information concerning the proposed regulation, contact Mr. Bruce Moore at (919) 541–5460, Coatings and Consumer Products Group, Emission Standards Division (MD–13), U.S Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: Copies of the Proposed Regulatory Text can be obtained through the Technology Transfer Network (TTN). The TTN is one of the EPA electronic bulletin boards. The TTN provides information and technology exchange in various areas of air pollution control. The service is free except for the cost of a phone call. Dial (919) 541–5472 for up to a 14,000 bps modem. Select (1) TTN Bulletin Board, (2) Clean Air Act Amendments, and (3) Recently Signed Rules. If more information on TTN is needed, contact the systems operator at (919) 541–5384.

Proposed Regulatory Text. The proposed regulatory text is not included in this Federal Register notice, but is available in Docket No. A–95–40, or by written or telephone request from the Air and Radiation Docket and Information Center (see **ADDRESSEES**).

Technical Support Document. The Technical Support Document (TSD) for the proposed standards may be obtained from the Air and Radiation Docket and Information Center (see **ADDRESSEES**).

Economic Impact Analysis (EIA). The EIA for the proposed standards may be obtained from the Air and Radiation Docket and Information Center (see **ADDRESSEES**).

Preamble Outline. The information presented in this preamble is organized as follows:

I. Acronyms and Definitions

The following acronyms and definitions are provided to aid in reading the preamble.

A. Acronyms

ACMC=Automotive Chemical Manufacturers Council
ASC=Adhesive and Sealant Council
ASTM=American Society for Testing and Materials
BAC=best available control(s)
CAA=Clean Air Act
CARB=California Air Resources Board
CSMA=Chemical Specialties Manufacturers Association
CTFA=Cosmetic, Toiletry, and Fragrance Association
CTG=Control Techniques Guidelines
FIFRA=Federal Insecticide, Fungicide, and Rodenticide Act
HVOC=high volatility organic compound
NAA=National Aerosol Association
NAAQS=national ambient air quality standard
OMB=Office of Management and Budget
OMS=Office of Mobile Sources
RFA=Regulatory Flexibility Act
RIA=regulatory impact analysis
SDA=Soap and Detergent Association
SIP=State implementation plan(s)
STAPPA/ALAPCO=State and Territorial Air Pollution Administrators/ Association of Local Air Pollution Control Offices
TCA=1,1,1-trichloroethane
VOC=volatile organic compound(s)

B. Definitions

Consumer or commercial products are defined in Section 183(e)(1) of the CAA as:

> Any substance, product (including paints, coatings, and solvents), or article (including any container or packaging) held by any person, the use, consumption, storage, disposal, destruction, or decomposition of which may result in the release of volatile organic compounds. The term does not include fuels or fuel additives regulated under Section 211, or motor vehicles, non-road vehicles, and non-road engines as defined under Section 216.

Consumer products are products used by individuals in a household setting (e.g., around the home, workshop, garden, garage).

Commercial products are products used in a variety of commercial, institutional, or industrial settings and include products similar in nature to consumer products that may be used in various commercial, institutional, or industrial applications.

II. Background

A. Need for Proposed Rule

Exposure to ground-level ozone is associated with a wide variety of human health effects, agricultural crop loss, and damage to forests and ecosystems. The most thoroughly studied health effects of exposure to ozone at elevated levels during periods of moderate to strenuous exercise are the impairment of normal functioning of the lungs, symptomatic effects, and reduction in the ability to engage in activities that require various levels of physical exertion. Typical symptoms associated with acute (one to three hour) exposure to ozone at levels of 0.12 parts per million (ppm) or higher under heavy exercise or 0.16 ppm or higher under moderate exercise include cough, chest pain, nausea, shortness of breath, and throat irritation.

Ground-level ozone, which is a major component of ''smog,'' is formed in the atmosphere by reactions of VOC and oxides of nitrogen (NO_X) in the presence of sunlight. In order to reduce ground-level ozone levels, emissions of VOC and NO_X must be reduced.

Section 183(e) of the CAA addresses VOC emissions from the use of consumer and commercial products. It requires the EPA to study VOC emissions from the use of consumer and commercial products, to report to Congress the results of the study, and to list for regulation products accounting for at least 80 percent of VOC emissions resulting from the use of such products in ozone nonattainment areas. Accordingly, in the March 23, 1995 Federal Register, (60 FR 15264) the EPA announced the availability of the ''Consumer and Commercial Products Report to Congress'' (EPA–453/R–94–066–A), and published the consumer and commercial products list and schedule for regulation.

Volatile organic compound emissions from the use of consumer products are not currently regulated at the Federal level. However, four States (California, Massachusetts, New York, and Texas) are currently enforcing VOC standards for various consumer products. Four additional States (Oregon, New Jersey, Rhode Island, and Connecticut) have proposed VOC standards for consumer products, and other States are currently developing standards. All of these State rules address at least some of the

products covered by the EPA's proposed rule. Representatives of the consumer products industry (e.g., CSMA, CTFA, SDA, NAA, ACMC, and ASC) have expressed concern that differences in State and local requirements for consumer products could disrupt the national distribution network for consumer products. They have, therefore, urged the EPA to issue rules for consumer products to encourage consistency across the country. Many States with ozone pollution problems are also supportive of an EPA rulemaking that will assist them in their efforts toward achievement of ozone attainment. At least 13 States have included anticipated reductions from the Federal consumer products rule as part of their plans to reduce VOC emissions by 15 percent by November 1996.

In response to these concerns, the EPA listed for regulation the 24 categories of household consumer products addressed by the proposed rule. The BAC standards proposed today establish VOC content limits for these 24 consumer products. States, however, may promulgate their own VOC standards for consumer products if they are at least as stringent as Federal rules. In some cases, depending upon their strategy for achieving attainment with the NAAQS for ozone, certain States may need to promulgate additional, or more stringent standards.

B. Consumer Products Survey

In order to ensure that the required 80 percent of VOC emissions from the use of consumer and commercial products are accounted for in the list and schedule for regulation, the EPA developed a comprehensive emissions inventory. A significant part of this inventory consists of data collected in a survey of consumer products. The survey was distributed to over 3,700 manufacturers and marketers of consumer products. All of the product categories addressed in this proposed rule were covered in the survey. The survey requested detailed information about consumer products on a formulation-specific basis including product category and form, total VOC and speciated VOC content, and net weight sold in 1990. The EPA compiled the survey responses into a data base that has provided, in part, the basis for development of these proposed consumer products standards. In particular, the data base was used to determine demonstrated VOC contents for each category, and to estimate the potential emission reduction and cost-effectiveness attributable to the proposed standards.

III. Summary of Proposed Standards

The promulgated rule for the consumer and commercial products scheduled for regulation under this proposal will be codified under 40 CFR Part 59. The proposed standards limit the VOC emissions from 24 categories of consumer products. These standards are largely consistent with a proposal by the consumer products industry and are similar to existing standards in certain States. The proposed standards apply to manufacturers, importers, or distributors of subject consumer products manufactured for sale or distribution in the United States. Compliance with the proposed standards must be demonstrated by the manufacturer, importer, or distributor listed on the product label. If more than one company is identified on the label, the proposed standards apply to the party for whom the product was manufactured or by whom the product was distributed. With the exception of charcoal lighter fluid (see below), the proposed product categories and their respective VOC content limits are presented in Tables 1 and 2. The VOC content limits presented in Tables 1 and 2 must be achieved by September 1, 1996. To identify subject consumer products, the proposed rule requires that each manufacturer or importer of a subject consumer product display on each consumer product container or package, the day, month, and year on which the product was manufactured, or a code indicating such date. Charcoal lighter fluid manufactured after September 1, 1996 may not emit greater than nine grams (0.02 pound) of VOC per start, as determined using procedures specified in Section 59.208 of the proposed rule.

Manufacturers or importers of subject charcoal lighter fluid must label their products with information specifying the quantity of charcoal lighter material per pound of charcoal that was used in the testing protocol for that product.

Proposed exemptions from the above-mentioned VOC content limits (or emission standards for charcoal lighters) include the following:

(1) Any consumer product manufactured in the United States for shipment and use outside of the United States.

(2) Fragrances incorporated into a consumer product up to a combined level of two weight-percent.

(3) Any VOC that has a vapor pressure of less than 0.1 millimeter of mercury at 20°C (68°F). If the vapor pressure is unknown, exempt compounds are those that have more than 12 carbon atoms or that have a melting point higher than 20°C (68°F) and do not sublime (i.e., do not change directly from a solid into a gas without melting).

(4) Insecticides containing at least 98 percent paradichlorobenzene or at least 98 percent naphthalene.

(5) Adhesives sold in containers of 0.03 liter (one ounce) or less.

(6) Bait station insecticides. For the purpose of this section, bait station insecticides are containers enclosing an insecticidal bait that does not weigh more than 14 grams (0.03 pound), where bait is designed to be ingested by insects and is composed of solid material feeding stimulants with less than five percent active ingredients.

(7) Air fresheners whose VOC constituents are 100 percent fragrance materials.

The proposed standards also include an innovative product provision that allows a manufacturer to demonstrate that, due to some characteristic of the product formulation, design, delivery system, or other factor, the use of the product will result in equal or less VOC emissions than a complying consumer product subject to the same VOC content limit as presented in Tables 1 and 2.

The proposed rule also allows a manufacturer or importer to apply for a temporary variance if, for reasons beyond their reasonable control, they cannot comply with the VOC content limit requirements. Criteria that must be met before the Administrator will grant a variance are specified in the proposed rule.

A manufacturer of a consumer product (except for charcoal lighter fluid) subject to the proposed provisions would be required to demonstrate compliance with the VOC content limits presented in Tables 1 and 2 by calculating the VOC content of each product from records of the weight percent of constituents used to make each batch of the product. A manufacturer of charcoal lighter fluid must demonstrate compliance using procedures specified in Section 59.208 of the proposed rule, or by another validated alternate method approved by the Administrator.

Manufacturers, importers, and distributors must keep records of formulations for each consumer product subject to Section 59.203(a) of the proposed rule for purposes of demonstrating compliance. Manufacturers would also be required to maintain accurate records for three years for each batch of production of the weight-percent and chemical composition of the individual product constituents. Manufacturers of subject charcoal lighter fluids must keep

records for three years of the results of tests performed according to Section 59.208 of the proposed rule.

The proposed standards require that manufacturers and importers of any subject consumer product submit a one-time initial notification report containing the following information: (1) Company name; (2) Location of facility(ies) manufacturing, importing, or distributing subject consumer products; (3) A list of product categories and subcategories, as found in Tables 1 and 2, that are manufactured or imported at each facility; (4) Location where VOC content records are kept for each subject consumer product; (5) Description of date coding systems; and (6) Name, title, and signature of certifying company official. An updated description of any date code that may have been revised subsequent to the initial notification report must be submitted within 30 days of its first use.

IV. Summary of Impacts

A. Environmental and Health Impacts

These standards will reduce nationwide emissions of VOC from these consumer products by 82,000 megagrams per year (Mg/yr) [90,000 tons per year (tpy)] by 1997 over emissions in 1990. This equates to a 20-percent reduction, compared to the emissions that would have resulted in the absence of these standards.

No adverse secondary air, water, or solid waste impacts are anticipated from compliance with these standards. In general, the proposed standards will lead to product reformulation to reduce the amount of VOC released into the air. While some additional water is likely to be added to formulations, this increase is not expected to result in additional water discharges to the environment.

The standards affect products manufactured after September 1, 1996, but do not impact existing product inventories. Excluding existing product inventories will eliminate any incremental solid waste increase due to discarded product. The new products are not expected to require any more packaging than existing products; thus, the volume of discarded packaging should not increase.

Impacts to health will be positive since the proposed standards will reduce national emissions of VOC by 82,000 Mg/yr (90,000 tpy). These reductions will result in a decrease in ground level ozone, particularly in ozone nonattainment areas.

B. Energy Impacts

There will be no increase in the national annual energy usage as a result of this rule. The proposed standards do not require the use of control devices to reduce the amount of VOC emitted to the air; the EPA is also not aware of any incremental energy increase expected from the production of the new formulations.

C. Cost Impacts

Under a worst-case scenario, implementation of these standards would result in national annualized costs of $26.0 million per year (presented in 1991 dollars). Actual costs are likely to be lower. This estimate includes the annualized one-time costs of product reformulation. Recordkeeping and reporting costs have been estimated to be approximately $950,000. Therefore, the total annualized costs are approximately $27.0 million. There are no monitoring requirements for this rule. No significant capital expenditures are expected. The EPA has determined, and the consumer products industry has concurred, that a significant proportion of subject products have been reformulated in response to State regulation. Data are not available to quantify the proportion of the one-time reformulation costs that have already been incurred.

By establishing a set of product-specific standards for VOC content, the proposed regulations have cost implications for producers of the affected products. In 1996, manufacturers of consumer products that do not meet the VOC levels in the proposed Table of Standards, will be required to reformulate products or remove products from the market. Each option imposes costs, some of which will be passed on to other members of society (consumers) in the form of higher prices and some of which will be borne directly by manufacturers.

The cost of reformulation includes the resources that must be devoted to creating a compliant product, e.g., research and development expenditures plus any net changes in the variable cost of producing the new product. Variable costs may be affected by changes in the material composition of the new product. The cost for each noncompliant product depends on the level of effort required to develop a new product and how these expenditures are incurred over time. Reformulation cost data were provided by industry to the EPA for prototype reformulations in the consumer product categories.

An economic impact analysis was performed for the proposed regulatory requirements. Potential cost, price, and output effects for the consumer products industry were examined. The analysis performed was based on data from the 1990 Consumer Products Survey. The estimated national cost of reformulating the ''noncompliant'' consumer products, if all products exceeding the VOC standards reformulated, would be approximately $26.0 million per year. This includes changes in variable (material) costs as well as the initial reformulation cost annualized over time. To the extent that lower-reformulations have already taken place since 1990, this cost estimate will overstate the true costs of this proposed regulation. Also, extremely small-volume products are likely to be withdrawn from the market rather than incur the fixed costs of reformulation.

The collective effect of some products being removed from the market and other products bearing higher costs of production will likely lead to changes in market prices and quantities. The estimated market effects are generally quite slight. Price effects in each market range from no effect to an approximately three percent increase. Market-level price effects are typically less than 0.1 percent. Quantity effects are similarly small, ranging from virtually no effect to a 1.7 percent reduction. Quantity effects, too, are typically less than 0.1 percent.

Given that producers would choose their least costly compliance option (i.e., product withdraw or reformulation), the estimated social cost of the regulation (including reformulation costs or lost profits from product withdraws) is approximately $21.3 million per year (estimated in 1991 dollars), with an estimated range from $17.1 million to $23.0 million by varying some key assumptions. The range of total social cost estimates for the regulation all fall below one percent of baseline revenue for the affected industry sectors.

D. Cost-Effectiveness

The EPA often compares the relative cost of different measures for controlling a pollutant by calculating the ''cost-effectiveness'' of the measures. Using the EPA's traditional calculation methodology, the cost-effectiveness of a regulation that applies nationwide is based on a comparison of national costs and nationwide emission reductions. This comparison is expressed as the cost per megagram (Mg) (or ton) of emissions reduced. Using social cost and emission reduction figures presented earlier in this section of the preamble, the nationwide cost-effectiveness of the proposed regulation is $260 per Mg ($237 per ton).

Alternative ways to calculate a measure of the ''cost-effectiveness'' of

the regulation have been suggested by others. One alternative would be to calculate cost-effectiveness on the basis of the nationwide cost of the regulation ($21.3 million for the proposed regulation) and the VOC reduction achieved in ozone nonattainment areas. The stated rationale for this approach is that cost-effectiveness measures should be designed in a way that best represents the objective of the regulatory action. In this case, for example, a major objective, though not the only objective, of these regulations is the control of ozone formation in nonattainment areas. By establishing nationwide standards, the cost of achieving emission reductions in ozone nonattainment areas during the ozone seasons requires nationwide expenditures during all seasons of the year, including expenditures year-round in areas currently in attainment with the current standard. These nationwide emission reductions—including emission reductions outside of nonattainment areas and out of the ozone season—may or may not contribute to efforts to limit ozone in nonattainment areas, depending on whether they participate in ozone transport from one area to another. One example of the application of this method is presented in a December 21, 1993, draft Regulatory Impact Analysis developed by the EPA OMS in which control of emissions from refueling of light duty vehicles (i.e., onboard refueling vapor recovery, or ORVR) could viably be applied either nationwide or in nonattainment areas alone. In this example, regional regulation represented an important alternative to national regulation. The OMS calculated cost-effectiveness using (1) nationwide costs and nationwide emission reductions, as well as (2) nationwide costs and the emission reductions achieved in nonattainment areas.

In the case of this consumer products rule, the proportion of emission reductions occurring in ozone nonattainment areas can be roughly calculated by assuming emission reductions are proportional to population; approximately 110 million of the 260 million U.S. population currently live in nonattainment areas. Thus, the fraction of the nationwide year-round emission reductions that occur in nonattainment areas is about 42 percent. Accordingly, on a nonattainment area basis, the cost-effectiveness of the rule would be $618/Mg ($563/ton). A similar calculation could be done to account for the seasonality of ozone formation.

While such an approach offers a measure of the cost of emission reductions in nonattainment areas, the EPA sees significant drawbacks to this approach. First, cost-effectiveness figures would no longer provide a consistent basis for comparison of the relative cost of different control measures or regulations considered at different points in time. Because the number and location of nonattainment areas changes frequently, the initial calculation of the cost-effectiveness of a rule would depend upon when it was issued. The EPA believes it is important that cost-effectiveness be calculated in a consistent manner that allows for valid comparisons. Also, introducing new methodology would tend to make new control measures appear superficially to be less cost-effective than measures utilized in the past, simply because of a change in well-established terminology.

Second, this alternative approach attributes all costs of the rule to emission reductions achieved in nonattainment areas and no cost to emission reductions achieved in attainment areas. By not including emission reductions in attainment areas, the methodology assumes that emission reductions in areas which attain the NAAQS for ozone have no value. In fact, attainment areas often contribute to pollution problems in nonattainment areas through the transport of emissions downwind. Also, emission reductions in attainment areas help to maintain clean air as the economy grows and new pollution sources come into existence. Furthermore, measures to reduce emissions of VOC often reduce emissions of toxic air pollutants.

Another alternative that has been suggested would be to calculate not only the emission reductions but also the cost if the requirements applied only in ozone nonattainment areas, perhaps through issuance of a CTG. The EPA has not estimated the cost of using a CTG to regulate only those products sold for use in ozone nonattainment areas. However, the industry has advised the EPA that the cost of having different product lines for attainment versus nonattainment areas would be prohibitive due to the duplicative effort of labeling, storage and distribution management. Therefore, it is expected that a cost-effectiveness estimate calculated based on this approach would be significantly higher than one calculated on the basis of both nationwide costs and emission reductions. Consequently, it is possible that in the case of a CTG approach, the industry might choose to reformulate products for nationwide distribution rather than develop two formulations of the same product. The use of CTG is discussed further in Section V(F)(2) of this notice.

The EPA is planning to review internally the generic question of the alternative approach to measuring costs against emission reductions. The results of this review are not available for incorporation into this rulemaking. Therefore, the EPA requests comments on the traditional and alternative methods discussed above to characterize the cost-effectiveness of this and other Section 183(e) regulations.

V. Rationale for Proposed Standards

A. Selection of Pollutant

The purpose of Section 183(e) of the CAA is to reduce the emissions of VOC from the use, consumption, storage, disposal, destruction, or decomposition of consumer and commercial products. Therefore, the standards proposed today regulate VOC. The proposed rule requires that the manufacturer, importer, or distributor of subject consumer products document the VOC content of each formulation. The EPA definition of VOC (found at 40 CFR Part 51, subpart F, and amended at 60 FR 31633) is very broad and includes virtually any organic compound that is not specifically exempted from the definition. (Compounds are exempt from this definition when they have been found to have negligible photochemical reactivity.)

Consumer products often contain ingredients which are of extremely low volatility. These low-volatility compounds are used in such ingredients as surfactants used in shampoos and laundry detergents, heavy oils used in lubricants, and waxes used in lip balms and underarm antiperspirants. If volatility is not considered, many consumer products contain 100 percent VOC by definition. Since, in some cases, all the products in a category may be of equal VOC content (100 percent), the EPA efforts to evaluate products with regard to availability of alternative products were severely limited. To address this problem, the EPA examined the possibility of targeting only those consumer product ingredients with relatively higher volatility in order to be able to distinguish among products. This in no way should be construed to mean that the EPA is not concerned about emissions of all VOC, regardless of volatility, and in no way alters the EPA existing overall VOC policy.

For the reasons stated above, the EPA adopted a volatility threshold for determining which ingredients are to be included in the VOC content calculations under the proposed rule. This approach addresses a subset of

VOC found in the consumer products subject to this proposed rule and is not to be considered a precedent for future rules. A consumer product ingredient is to be counted as part of the VOC content of a product subject to the proposed rule if it is a VOC by the EPA definition and meets one of the following criteria:

(1) The ingredient compound has a vapor pressure greater than 0.1 millimeter of mercury (mmHg) at 20°C; or

(2) The vapor pressure for the ingredient compound is unknown, and the compound's empirical formula contains 12 or less carbon atoms; or

(3) The vapor pressure for the ingredient compound is unknown, and the compound exists as a solid at room temperature (20°C) but readily sublimes (becomes a vapor at room temperature).

As discussed in Section II.C of this preamble, several States have adopted consumer product rules. Each of these State rules are based on these same volatility criteria.

Throughout this preamble and regulation, the term VOC is used. However, the only VOC that must be used in determining compliance are those VOC not specifically excluded by the criteria listed above. All reported emission reductions are also based on this subset of VOC. The EPA recently exempted acetone from the definition of VOC (60 FR 31633); therefore, the proposed standards do not apply to acetone. The EPA recognizes that some States have not exempted acetone from their definitions of VOC, and may need to adjust accordingly.

B. Selection of Best Available Controls (BAC)

Standards under Section 183(e) of the CAA must reflect BAC. The CAA defines BAC as follows:

> (A) Best Available Controls—The term 'best available controls' means the degree of emissions reduction the Administrator determines, on the basis of technological and economic feasibility, health, environmental, and energy impacts, is achievable through the application of the most effective equipment, measures, processes, methods, systems or techniques, including chemical reformulation, product or feedstock substitution, repackaging, and directions for use, consumption, storage, or disposal.

The EPA has determined that BAC for 23 of the consumer product categories proposed for regulation consists of specific VOC content limits, expressed as the weight-percent VOC, for each consumer product category. For charcoal lighter fluid, BAC is expressed as the amount of VOC emitted during use as determined by the method presented in Section 59.208 of the rule. Section 183(e) of the CAA allows the EPA to consider a wide range of strategies and technologies in determining BAC. The determination must be based on technological and economic feasibility, as well as on health, environmental, and energy impacts. The EPA has determined that, in most cases, all or most of a product's VOC content is emitted during product use. (The EPA has determined that the use of certain consumer products results in VOC being washed down drains where they are decomposed and do not result in air emissions. This issue is documented in the ''Consumer and Commercial Products Report to Congress''; EPA–453/R–94–066–A.) Regulations that attempt to control consumption or user habits are considered to be impractical and undesirable. Therefore, the EPA concluded that limits on the amount of VOC incorporated into the products would be the most feasible and least disruptive control measure. Additionally, in working to comply with State VOC rules over the past several years, the consumer products industry has established product reformulation as the most technologically and economically feasible strategy for reducing VOC emissions. The proposed standard reflects BAC and was developed based primarily on the EPA consumer products survey, analysis of existing State rules for consumer products, and information gathered during the EPA study of the consumer and commercial products industry.

The EPA recognizes a need to proceed with development of these standards as quickly and expeditiously as possible. State and local agencies and representatives of the consumer products industry have expressed concern about the current lack of Federal VOC standards for consumer products. The persistence of the ground-level ozone problem has caused State and local air pollution agencies to seek emission reductions beyond those obtained through regulation of the conventional mobile and stationary sources of emissions. As a result, several agencies are adopting rules to regulate various household consumer products. Representatives of the consumer products industry have expressed concern that differences in State and local requirements for consumer products could disrupt the national distribution network for consumer products. The industry has therefore urged the EPA to issue national rules for consumer products to provide consistency across the country. States needing emission reductions are also supportive of an EPA rulemaking that will assist them in their efforts toward achievement of ozone attainment.

In June 1994 the consumer products industry, represented by the CSMA and the CTFA, submitted recommended VOC content limits to the EPA for 24 consumer product categories. These limits were based on extensive negotiations between industry and various State regulators. The EPA determined that the regulatory development process for consumer products could be expedited by using the CSMA/CTFA recommendations as a starting point. Therefore, the EPA analyzed the CSMA/CTFA-recommended VOC content limits to assess whether they reflect BAC as defined by the CAA. The analysis revealed that the recommended VOC content limits would require that approximately 34 percent of products in these 24 categories be reformulated and that emissions of VOC from the use of products in these categories would be reduced by 20 percent. The recommended limits would also allow for a variety of products in each category, and would therefore not adversely affect the range of choices available to consumers. The limit proposed for each product category is currently demonstrated (i.e., available to consumers) in several different formulations, and is consistent with limits currently enforced by States that have consumer products rules (see Table 3).

For some product categories, the EPA's database suggested that lower VOC content limits might be feasible (see Table 4). However, the EPA has chosen to propose standards similar to those proposed or currently enforced by States because the existence of these standards, and the fact that industries are already complying with these standards, provides stronger evidence that these levels are achievable for a wide range of product applications at current levels of product efficacy.

The EPA recently added acetone to the list of compounds exempt from the definition of VOC. The proposed VOC limit for nail polish removers is 85 percent. This level was not lowered following the acetone exemption, because polish removers designed for use with artificial nails are based on solvents other than acetone to avoid damage to the nails. The EPA determined that subcategorization of polish removers for natural nails and artificial nails would result in no emission reductions and would increase recordkeeping and reporting burden unnecessarily.

The regulation of consumer products will have unique technical and economic impacts due to its direct effects on consumers and the degree to which perception affects consumer product demand. Regulation of the use of household and personal products will immediately and directly impact the public. The EPA has determined, through intensive studies of various sectors of the consumer products industry (as documented in the Consumer and Commercial Products Report to Congress), that product VOC content affects not only the technical performance of consumer products, but the compatibility of ingredients with each other and with packaging materials, the consumers' perception of efficacy, product life, and aesthetic appeal. Additionally, particular populations of consumers are sensitive to, or cannot use, some VOC ingredients, which are therefore replaced with alternate ingredients in similar products. Therefore, replacement of VOC ingredients requires a series of relatively complex product development, and consumer and market testing activities.

The range of VOC content levels in consumer products currently on the market reflects the range of products that provides for the wide variety of applications and expectations that comprise the consumer products market. These VOC content levels also reflect several years of negotiation between manufacturers and State regulatory agencies, and subsequent redesign of products to meet State limits. Setting VOC content limits equivalent to the lower end of the range currently marketed has the potential to adversely affect consumer choices and to eliminate certain product applications and efficacy levels from the market. The EPA does not have evidence or information to indicate that such impacts are warranted to achieve an additional level of emission reductions. To the contrary, the recommended VOC content limits will achieve significant VOC emission reductions without eliminating any identifiable product niches or applications, and without adverse market impacts. Therefore, the EPA has determined that the recommended VOC content limits reflect BAC, and the EPA is proposing those limits in this action.

C. Selection of Special Provisions

The standards proposed today include several special provisions; these provisions were necessary to ensure that the standards apply only where necessary and where the EPA has concluded that the standards can be met. These provisions include methods for calculating VOC content of specific products, as well as exemptions for specific product types.

1. Determination of VOC Content

As discussed in Section IV.B of this preamble, the EPA has limited the VOC that are included for compliance determination. For aerosol antiperspirant and aerosol deodorant products, the proposed VOC content limits apply only to HVOC, which are defined as VOC with a vapor pressure equal to or greater than 80 mmHg at 20° C. As a result, only the propellants in these products are regulated. Other VOC ingredients in these products have vapor pressures less than 80 mmHg. Ethanol is the most prevalent nonpropellant VOC ingredient in antiperspirants and deodorants. Information submitted by the CTFA states that ethanol provides several different functions in antiperspirants and deodorants including active ingredient (as an antimicrobial), a solvent for other active ingredients, and fragrance enhancer. The CTFA reports that there is no non-VOC substitute for ethanol in these products. Consequently, the proposed standards do not apply to nonpropellant VOC in antiperspirants and deodorants.

In addition, the EPA has concluded that the minimum feasible fragrance content in consumer products is two weight-percent. Therefore, in calculating the total VOC weight-percent of a product to demonstrate compliance, fragrance ingredients up to a combined level of two weight-percent are not included; fragrance ingredients in excess of two percent must be included in the calculation of total VOC content.

2. Products for Use Outside the U.S.

The EPA has also included a provision that limits the standards to consumer products manufactured or imported for use in the United States. The intent of Section 183(e) of the CAA is to limit VOC from the use of consumer and commercial products in the United States; therefore, impacting products exported for sale in other countries is beyond the scope of these standards.

3. Product-Specific Exemptions

Several specific exemptions have been provided in cases where the EPA has determined that no alternative technology exists. Insecticides containing 98 percent paradichlorobenzene or naphthalene are exempt from today's standards; no known reformulation technology exists to replace these moth repellents. Similarly, air fresheners that consist entirely of perfume are exempt because there is not non-volatile replacement for perfumes.

Adhesives sold in containers less than one fluid ounce are also exempted from these standards. Virtually all adhesives sold in containers of less than one ounce are specialty hobby or instant bond glues that are used in very small amounts (e.g., a few drops per application). Again, the EPA has concluded that no reformulation technology exists for these specialty adhesives. In addition, as these glues form bonds, the volatile compounds absorb water from the air and become nonvolatile. Therefore, emissions from their use are negligible.

The proposed standards allow one additional year before compliance is required for subject FIFRA-registered products. This extra compliance time is necessary due to the testing, labeling, and registration burden associated with FIFRA compliance.

The EPA has added a specific exemption for insect bait standards from the proposed standards. These products contain solid material designed to be ingested by insects and contain no VOC. Without an exemption, these products would be covered under the crawling insect category. While these products could easily meet the standard, there is no justification to require any reporting or recordkeeping for these products.

4. Innovative Product Provisions

The proposed rule includes an alternate compliance method that manufacturers and importers of consumer products may choose in lieu of meeting a VOC content limit. The innovative product provisions exempt a specific product formulation from the VOC content limits if that product can be shown to emit less VOC than a representative product in the same category that does meet the VOC content limit. The manufacturer or importer must demonstrate to the Administrator's satisfaction that use of the innovative product will result in equal or less VOC emissions than a representative complying product due to the innovative product's formulation, design, delivery system, or other characteristics. The innovative product provisions are included in the proposed rule to allow flexibility to consumer product formulations without compromising VOC emission reductions, and to encourage formulators to pursue new technologies that may reduce VOC emissions. The consumer products industry is characterized by frequent introduction

of new and modified products. Through the innovative product provisions, manufacturers can continue to market a variety of product choices while achieving the proposed emission reductions. In addition, manufacturers or importers would be allowed to market innovative products immediately upon notifying the Administrator of their intent to do so, and provided that all required documentation on the innovative product's potential emissions has been submitted.

5. Compliance Variance

The proposed rule includes a variance provision whereby manufacturers or importers of subject consumer products may apply to the Administrator for a temporary variance from compliance with the standards. A variance will be granted if the applicant demonstrates that compliance would result in economic hardship, and that granting the variance would better serve the public interest than would requiring continuous compliance under the conditions of economic hardship. The EPA intends for this provision to allow manufacturers and importers some flexibility in responding to unforeseen circumstances that may cause additional, unanticipated compliance burden. The EPA recognizes that certain interruptions in the availability of raw materials and/or manufacturing processes may affect ability to continuously comply with the standards. In particular, the EPA anticipates that this variance provision will help to mitigate impacts to small businesses. Within the consumer products industry, small businesses are likely to have fewer research and development resources, and therefore, will benefit from the allowed variance.

D. Selection of Recordkeeping and Reporting Requirements

In selecting reporting and recordkeeping requirements for this rule, the EPA balanced the need to ensure compliance with the directive to ensure that burden is minimized. The proposed standards include the minimum reporting and recordkeeping requirements that the EPA determined were necessary to ensure compliance. Recordkeeping requirements must be met for each product formulation by the manufacturer or importer listed on the product label. If more than one party is listed on the label, the company for whom the product was manufactured is required to carry out recordkeeping and reporting requirements.

For products listed on Tables 1 and 2 (i.e., all subject products except charcoal lighter fluid), records must be kept for three years of each product's formulation, and daily records must be kept of the weight percent of each VOC ingredient included in each product. For charcoal lighter fluid, records must be kept for three years of the data collected and results for all emissions tests performed according to Section 59.208.

The only report required is a one-time initial notification report, due on September 1, 1996, and required of all manufacturers or importers of subject consumer products. The report must include identifying and location information for the respondent, a description of their product date coding systems, and a list of subject products manufactured, imported, or distributed. An updated description of any date code that may have been revised subsequent to the initial notification report must be submitted within 30 days of its first use.

E. Selection of Test Method

The proposed standards rely predominantly on formulation information to demonstrate compliance. The VOC content for each product must be calculated based on mass balance of the constituents used to manufacture the product and any other byproducts or waste streams.

The EPA is proposing a separate test protocol for determining compliance for charcoal lighter materials. In order to accomplish their intended purpose, charcoal lighter materials consist entirely of VOC. The standard for charcoal lighter fluid, therefore, consists of a limit on the amount of VOC that can be emitted during use.

F. Alternative Regulatory Approaches

1. Other Systems of Regulation

Section 183(e)(4) allows the EPA to consider ''any system or systems of regulation as the Administrator may deem appropriate, including requirements for registration and labeling, self-monitoring and reporting, prohibitions, limitations, or economic incentives (including marketable permits and auctions of emission rights) concerning the manufacture, processing, distribution, use, consumption, or disposal of the product.'' Accordingly, the EPA requests comment on any alternative to the proposed system of regulation.

2. Regulation with the Use of CTG

Section 183(e)(3)(C) gives the EPA the flexibility to ''issue control techniques guidelines under this Act in lieu of regulations required under subparagraph (A) if the Administrator determines that such guidance will be substantially as effective as regulations in reducing emissions of volatile organic compounds which contribute to ozone levels in areas which violate the national ambient air quality standard for ozone.''

In many cases, CTG can be effective regulatory approaches to reduce emissions of VOC in nonattainment areas—with the advantage of not imposing control costs on attainment areas, where benefits of reducing VOC emissions may be less. For example, VOC emissions from commercial products used in industrial settings could be controlled effectively with a CTG that targeted emissions at the point of end-use, as the population of end users is likely to be readily identifiable. Also, for a potentially large share of nonattainment area VOC emission sources, enforcement and compliance could effectively be focused at the source of the VOC emissions through the use of a CTG, be it the point of manufacture, the point of end-use, or both. However, for small volume consumer products that are widely used (e.g., the products covered by this proposed rule), a CTG might not be effective at reducing VOC emissions because of difficulties in enforcement. The EPA requests comment on whether and how a CTG approach (by itself, or in combination with any other regulatory alternatives) would be as effective as a national rule in reducing VOC emissions in ozone nonattainment areas, not only for the proposed consumer products rule but also for other product categories scheduled for regulation under Section 183(e) of the CAA (see 60 FR 15264, March 23, 1995).

3. VOC Standards for a Subset of Categories

Individual cost-effectiveness values for each of the 24 product categories are based primarily on cost information which was developed and provided by industry representatives to the EPA. The calculated cost-effectiveness of the 24 categories varies widely, from $68 to $10,400 per Mg ($62 to $9455 per ton). Rather than regulate all 24 product categories, the EPA could select a more cost-effective subset. With this approach, it appears that the rule could achieve most of the emissions reductions for a portion of the cost. For example, regulating 15 categories of consumer products would yield about 80 percent of the emissions reductions expected to be achieved by the proposed rule at about 30 percent of the total cost. As discussed in Section V.B., the EPA has included requirements for all 24

product categories based on input from State and industry representatives. The industry representatives have suggested that national regulations for these products benefit industry by promoting consistent regulation throughout the country. A national rule makes it less likely that additional States will adopt different standards to limit VOC emissions from the same products. The industry representatives have also asserted that inconsistent State standards could impose additional costs on the industry. The EPA requests comment on setting emission limits for the most cost-effective subset of the 24 consumer product categories as discussed here.

4. Discretion to Consider Section 183(e) Ranking Factors During Rulemaking

In establishing criteria for regulating consumer and commercial products, Section 183(e)(2)(B) requires the EPA to consider the following factors: (1) the uses, benefits, and commercial demand of consumer and commercial products; (2) the health or safety functions (if any) served such consumer and commercial products; (3) those consumer and commercial products which emit highly reactive VOC into the ambient air; (4) those consumer and commercial products which are subject to the most cost-effective controls; and (5) the availability of alternatives (if any) to such consumer and commercial products which are of comparable costs, considering health, safety, and environmental impacts.

In order to develop the schedule for regulation of consumer and commercial products under Section 183(e), the EPA established and exercised criteria based on the above factors and other considerations. Others have suggested that the five factors should be considered not only in setting priorities but also at the time of rulemaking for specific categories of products. The EPA requests comment on their discretion to consider the five factors in specific regulatory actions.

VI. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 5173, (October 4, 1993)), the EPA must determine whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the executive order. The order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the executive order.

Pursuant to the terms of the executive order, OMB has notified the EPA that it considers this a ''significant regulatory action'' within the meaning of the executive order. The EPA has submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the docket (see **ADDRESSEES**).

B. Enhancing the Intergovernmental Partnership Under Executive Order 12875

In compliance with Executive Order 12875, the EPA has involved State and local governments in the development of this rule. State and local air pollution control associations (CARB, New Jersey Department of Environmental Protection, Wisconsin Department of Natural Resources, and STAPPA/ALAPCO) have provided regulatory review support.

C. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, the EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, Section 205 of the UMRA generally requires the EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of Section 205 do not apply when they are inconsistent with applicable law. Moreover, Section 205 allows the EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under Section 203 of the UMRA, a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of the EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The rule imposes no enforceable duties on any of these governmental entities. In any event, the EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of Sections 202 and 205 of the UMRA.

D. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by the EPA (ICR No. ____) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2136); 401 M St. SW.; Washington, DC 20460 or by calling (202) 260–2740.

The information required to be collected by this proposed rule is necessary to identify the regulated entities who are subject to the rule and to ensure their compliance with the rule. The recordkeeping and reporting requirements are mandatory and are being established under authority of Section 114 of the CAA. All information submitted to the EPA for which a claim of confidentiality is made will be safeguarded according to the EPA policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information (see 40 CFR 2; 41 FR 36092, September 1, 1976; amended by 43 FR 39999, September 8, 1978; 43

FR 42251, September 28, 1978; 44 FR 17674, March 23, 1979).

The total annual reporting and recordkeeping burden for this collection averaged over the first three years is estimated to be 28,386 hours per year. The average burden, per respondent, is 129 hours per year. The total annualized recordkeeping and reporting costs for the proposed rule are estimated to be $964,416 and consist wholly of operation and maintenance costs. There are no capital or startup costs, or purchased services costs, associated with the reporting and recordkeeping requirements of this rule. There would be an estimated 220 respondents to the proposed collection requirements. Average annualized cost of reporting and recordkeeping, per respondent, is $4,384.

The proposed rule requires an initial one-time notification from each respondent and subsequent notifications each time the date code is changed.

Formulations and ingredient usage would be recorded for each batch of production. Respondents seeking a variance must submit an application which provides information to the EPA necessary in determining whether to grant the variance. The application would include the specific grounds on which the variance is sought, proposed date by which the requirements of the rule will be met, and a plan for achieving compliance. Supporting documentation is required of companies who wish to market a product subject to the ''innovative products'' provision of the proposed rule. This documentation includes information on VOC emissions from the use of the product as compared to emissions from a product formulated in compliance with the Table of Standards. The proposed rule requires that the labels of all subject consumer products display the date of manufacture. However, there should be no additional burden imposed due to this labeling requirement, because manufacturers routinely date-code their products. The date can be in coded form. All manufacturers and importers of subject products must submit an explanation of all date codes used. Date code explanations must be submitted with the initial report. Thereafter, respondents must submit explanations of any new date codes within 30 days of their first use.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Comments are requested on the EPA's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments on the ICR to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St. S.W.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St. N.W.; Washington, DC 20503; marked ''Attention: Desk Officer for EPA''. Include the ICR number in any correspondence. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after April 2, 1996, a comment to OMB is best assured of having its full effect if OMB receives it by May 2, 1996. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (or RFA, Public Law 96–354, September 19, 1980) requires Federal agencies to give special consideration to the impact of regulation on small businesses. The RFA specifies that a final regulatory flexibility analysis must be prepared if a proposed regulation will have a significant economic impact on a substantial number of small entities. To determine whether a final RFA is required, a screening analysis, otherwise known as an initial RFA, is necessary.

Regulatory impacts are considered significant if:

(1) Annual compliance costs increase total costs of production by more than five percent, or

(2) Annual compliance costs as a percentage of sales are at least 20 percent higher for small entities, or

(3) Capital cost of compliance represents a significant portion of capital available to small entities, or

(4) The requirements of the regulation are likely to result in closures of small entities.

A ''substantial number'' of small entities is generally considered to be more than 20 percent of the small entities in the affected industry.

The RFA requires the EPA to consider potential adverse impacts of proposed regulations on small entities and to consider regulatory options that might mitigate any such impacts. It is currently the EPA's policy to perform a regulatory flexibility analysis of the potential impacts of proposed regulations on small entities whenever it is anticipated that any small entities may be adversely impacted. Because it is anticipated that some small consumer product manufacturers could be adversely impacted from implementation of the proposed standards, a regulatory flexibility analysis was performed.

The analysis of small entity impacts focused on the potential impacts on small manufacturers producing consumer products. Almost 80 percent of the consumer product firms identified as subject to the regulation are considered ''small'' by the Small Business Administration's standard for this industry. However, these small firms only generate about two percent of the total revenue and employment associated with all identified firms.

The proposed regulations are expected to have some negative impact on small producers by virtue of the fact that they have a large presence in the regulated industries, and because they may be likely to experience significant rates of product withdraws because it may not be cost-effective to reformulate very small volume products. The regulation does not, however, appear more stringent for product categories with higher small business presence. The potential effect on small businesses is somewhat mitigated by the fact that overall regulatory costs are a relatively small share of total industry revenues. The complete economic impact and regulatory flexibility analysis is provided in the docket.

In conclusion, and pursuant to Section 605(b) of the RFA, 5 U.S.C. 605(b), the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities. The basis for the certification is that the economic impacts for small entities do not meet or exceed the criteria in the Guidelines to the Regulatory Flexibility Act of 1980, as shown above.

Table 1. Product Category Table of Standards VOC Content Limits

Product category	VOC content limit (weight-percent VOC)
Air fresheners:	
Single-phase	70
Double-phase	30
Liquids/pump sprays	18
Solids/gels	3
Automotive windshield washer fluid,	
Bathroom and tile cleaners:	35
Aerosols	7
All other forms	5
Carburetor and choke cleaners	75
Cooking sprays, Aerosols	18
Dusting aids:	
Aerosols	35
All other forms	7
Engine degreasers	75
Fabric protectants	75
Floor polishes/waxes:	
Products for flexible flooring materials	7
Products for nonresilient flooring	10
Wood floor wax	90
Furniture maintenance products,	
Aerosols	25
General purpose cleaners	10
Glass cleaners:	
Aerosols	12
All other forms	8
Hairsprays	80
Hair mousses	16
Hair styling gels	6
Household adhesives:	
Aerosols	75
Contact	80
Construction and panel	40
General purpose	10
Structural waterproof	15
Insecticides:	
Crawling bug	40
Flea and tick	25
Flying bug	35
Foggers	45
Lawn and Garden	20
Laundry prewash	
Aerosols/solids	22
All other forms	5
Laundry starch products	5
Nail polish removers	85
Oven cleaners:	
Aerosols/pump sprays	8
Liquids	5
Shaving creams	5

TABLE 2.—ANTIPERSPIRANT AND DEODORANT TABLE OF STANDARDS HVOC [1] CONTENT LIMITS

Product category	Percent HVOC [1] content limit (weight-percent HVOC)
Antiperspirants (aerosols)	60
Deodorants (aerosols)	20

[1] HVOC are volatile organic compounds with vapor pressure greater than 80 millimeters of mercury at 20 °C (68 °F).

TABLE 3.—Currently Enforced State Volatile Organic Compound Limits

Product category	Percent volatile organic compound by weight			
	Proposed VOC limit	California	New York	Texas
Air fresheners:				
Single-phase	70	70	70	70
Double-phase	30	30	30	30
Liquids/pump sprays	18	18	18	18
Solids/gels	3	3	3	3
Automotive windshield washer fluids	35	.....	.....	23.5
Cold climate areas	.....	35	.....	.....
All other areas	.....	10	.....	.....
Bathroom and tile cleaners:				
Aerosols	7	7	.....	7
All other forms	5	5	.....	5
Carburetor and choke cleaners	75	75	.....	75
Cooking sprays—aerosols	18	18	.....	18
Dusting aids:				
Aerosols	35	35	.....	35
All other forms	7	7	.....	7
Engine degreasers	75	75	.....	75
Fabric protectants	75	75	.....	75
Floor polishes/waxes:				
Products for flexible flooring materials	7	7	.....	7
Products for nonresilient flooring	10	10	.....	10
Wood floor wax	90	90	.....	90
Furniture maintenance product, Aerosols	25	25	.....	25
General purpose cleaners	10	10	10	10
Glass cleaners:				
Aerosols	12	12	.....	12
All other forms	8	8	.....	6
Hairsprays	80	80	80	80
Hair mousses	16	16	.....	16
Hair styling gels	6	6	.....	6
Household adhesives:				
Aerosols	75	75	.....	75
Contact	80	80	.....	80
Construction and panel	40	40	.....	40
General purpose	10	10	.....	10

TABLE 3.—Currently Enforced State Volatile Organic Compound Limits—Continued

Product category	Percent volatile organic compound by weight			
	Proposed VOC limit	California	New York	Texas
Insecticides:				
Crawling bug	40	40	.....	40
Flea and tick	25	25	.....	25
Flying bug	35	35	.....	35
Foggers	45	45	.....	45
Lawn and garden	20	20	.....	20
Laundry prewash:				
Aerosols/solids	22	22	.....	22
All other forms	5	5	.....	5
Laundry starch products	5	5	.....	5
Nail polish removers	85	85	.....	75
Oven cleaners:				
Aerosols/pump sprays	8	8	.....	8
Liquids	5	5	.....	5
Shaving creams	5	5	.....	5
Antiperspirants-Aerosol	60[a]	60[a]/20[b]	60[a]20[b]	60[a]
Deodorants-Aerosol	20[a]	20[a]/20[b]	20[a]/20[b]	20[a]

[a] Limit is for VOC with vapor pressure equal to or greater than 80 mmHg at 20°C (vp ≥ 2.0 mmHg @ 20°C).
[b] Limit is for VOC with vp ≥ 2.0 mmHg @ 20°C.

TABLE 4.—FEASIBILITY OF VOC CONTENT LIMITS

Product category	Proposed VOC content limit[a] (weight-percent VOC)	Percentage of products achieving recommended limit[a]	Percentage of tons sold in 1990 achieving recommended limit
Air fresheners:			
Single phase	70	13	28
Dual phase	30	66	8
Liquids/pumps sprays	18	60	27
Solids/gels	3	49	63
Bathroom tile cleaners:			
Aerosol	7	61	91
Other	5	83	57
Carburetor and choke cleaners	75	48	13
Cooking sprays—aerosols	18	36	11
Dusting aids:			
Aerosol	35	64	88
Other	7	56	73
Engine degreasers	75	64	83
Fabric protectants	75	55	76
Floor polishes/waxes:			
Flexible floors	7	100	100
Non-resilient materials	10	100	100
Wood	90	97	98
Furniture maintenance products	25	65	86
General purpose cleaners	10	74	88
Glass cleaners:			
Aerosols	12	49	29
Other	8	40	88
Hairsprays	80	33	14
Hair mousses	16	61	58
Hair styling gels	6	71	82
Household adhesives:			
Aerosols	75	88	86
Contact	80	93	98
Construction and panel	40	84	94
General purpose	10	61	83
Non-agricultural insecticides	40	57	61
Crawling insects	45	50	55
Foggers	25	69	78
Flea/tick	35	54	87
Flying bug	20	59	83
Lawn and garden	.....	.....	.....
Laundry prewash aerosols/solids	22	64	23

TABLE 4.—FEASIBILITY OF VOC CONTENT LIMITS—Continued

Product category	Proposed VOC content limit [a] (weight-percent VOC)	Percentage of products achieving recommended limit [a]	Percentage of tons sold in 1990 achieving recommended limit
Antiperspirants—aerosols	60 [b]	33	3
Deodorants—aerosols	20 [b]	40	33

List of Subjects in 40 CFR Part 59

Environmental protection, Air pollution control, Consumer products, Consumer and commercial products, Ozone, Volatile organic compound.

Dated: March 26, 1996.

Carol M. Browner,

Administrator.

[FR Doc. 96–8005 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

RIN 1018–AD63

Export of River Otters Taken in Missouri in the 1996–97 and Subsequent Seasons

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates international trade in certain animal and plant species. Exports of animals and plants listed on Appendix II of CITES require an export permit from the country of origin. As a general rule, export permits are only issued after two conditions are met. First, the exporting country's CITES Scientific Authority must advise the permit-issuing CITES Management Authority that such exports will not be detrimental to the survival of the species. This advice is known as a ''no-detriment'' finding. Second, the Management Authority must make a determination that the animals or plants were not obtained in violation of laws for their protection. If live specimens are being exported, the Management Authority must also determine that the specimens are being shipped in a humane manner with minimal risk of injury or damage to health.

The purpose of this proposed rule-making is to announce proposed findings by the Scientific and Management Authorities of the United States on the export of river otters harvested in the State of Missouri, and to add Missouri to the list of States and Indian Nations for which the export of river otters is approved. The Service intends to apply these findings to harvests in Missouri during the 1996–97 season and subsequent seasons, subject to the conditions applying to approved States.

DATES: The Service will consider comments received on or before June 3, 1996 in making its final determination on this proposal.

ADDRESSES: Please send correspondence concerning this proposed rule to the Office of Scientific Authority; Room 725 (Room 750 for express and messenger-delivered mail), U. S. Fish and Wildlife Service, 4401 North Fairfax Drive; Arlington, Virginia 22203. Comments and materials received will be available for public inspection, by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Arlington Square Building, 4401 North Fairfax Drive, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Scientific Authority Finding—Dr. Marshall A. Howe, Office of Scientific Authority; phone 703–358–1708; FAX 703–358–2276.

Management Authority Findings/State Export Programs—Ms. Carol Carson, Office of Management Authority; Mail Stop: Arlington Square, Room 420c; U.S. Fish and Wildlife Service; Washington, DC 20240 (phone 703–358–2095; FAX 703–358–2280).

SUPPLEMENTARY INFORMATION: On January 5, 1984 (49 FR 590), the Service published a rule granting export approval for river otters and certain other CITES-listed species of furbearing mammals from specified States and Indian Nations and Tribes for the 1983–84 and subsequent harvest seasons. In succeeding years, approval for export of one or more species of furbearers has been granted to other States and Indian Nations, Tribes, or Reservations through the rule-making process. These approvals were and continue to be subject to certain population monitoring and export requirements. The purpose of this notice is to announce proposed findings by the Scientific and Management Authorities of the United States on the proposed export of river otters, *Lontra canadensis,* harvested in the State of Missouri, and to add Missouri to the list of States and Indian Nations for which the export of river otters is approved. The Service proposes these findings for the export of specimens harvested in the State of Missouri during the 1996–97 season and subsequent seasons, subject to the conditions applying to other approved entities.

CITES regulates import, export, re-export, and introduction from the sea of certain animal and plant species. Species for which the trade is controlled are included in three appendices. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that, although not necessarily now threatened with extinction, may become so unless trade in them is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control (e.g., because of difficulty in distinguishing specimens of currently or potentially threatened species from those of other species). Appendix III includes species that any Party identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Parties to control trade.

In the January 5, 1984, Federal Register (49 FR 590), the Service announced the results of a review of listed species at the Fourth Conference of the CITES Parties that certain species of furbearing mammals, including the river otter, should be regarded as listed in Appendix II of CITES because of similarity in appearance to other listed species or geographically separate populations. The January 5, 1984, document described how the Service, as Scientific Authority, planned to monitor

annually the population and trade status of each of these species and to institute restrictive export controls if prevailing export levels appeared to be contributing to a trend of long-term population decline. The document also described how the Service, as Management Authority, would require States to assure that specimens entering trade are marked with approved, serially unique tags as evidence that they had been legally acquired.

Scientific Authority Findings

Article IV of CITES requires that, before a permit to export a specimen of a species included in Appendix II can be granted by the Management Authority of an exporting country, the Scientific Authority must advise ''that such export will not be detrimental to the survival of that species.'' The Scientific Authority for the United States must develop such advice, known as a no-detriment finding, for the export of Appendix II animals in accordance with Section 8A(c)(2) of the Endangered Species Act of 1973, as amended (the Act). The Act states that the Secretary of the Interior is required to base export determinations and advice ''upon the best available biological information derived from professionally accepted wildlife management practices; but is not required to make, or require any State to make, estimates of population size in making such determinations or giving such advice.''

The river otter is managed by the wildlife agencies of individual States or Indian Nations. Most States and Indian Nations from which the Service has approved the export of river otters in 1983–84 and subsequent seasons were identified in the January 5, 1984, Federal Register (49 FR 590) and listed in 50 CFR 23.53. The State of Tennessee was approved administratively for the 1994–95 season and through a rulemaking for 1995–96 and subsequent seasons (61 FR 2454, January 26, 1996). Each export-approved State or Indian Nation in which this animal is harvested has a program to regulate the harvest. Based on information received from the State of Missouri, the Service proposes adding that State to the list of States and Indian Nations approved for export of river otters.

Given that the river otter is listed on Appendix II of CITES primarily because of similarity of appearance to other listed species in need of rigorous trade controls, an important component of the no-detriment finding by the Scientific Authority is consideration of the impact of river otter trade on the status of these other species. The Scientific Authority has determined that the dual practice of (1) issuing export permits naming the species being traded and (2) marking pelts with tags bearing the name of the species, country and State of origin, year of harvest, and a unique serial number, is sufficient to eliminate potential problems of confusion with, and therefore risk to, other listed species (see Management Authority Findings for tag specifications).

In addition to considering the effect of trade on species or populations other than those being exported from the United States, the Service will regularly examine information on river otters in the State of Missouri to determine if there is a population decline that might warrant more restrictive export controls. This monitoring and assessment will follow the same procedures adopted for other States and Indian Nations. As part of this monitoring program, the States and Indian Nations that have been approved for export of river otters are requested annually to certify that the best available biological information derived from professionally accepted wildlife management practices indicates that harvest of river otters during the forthcoming season will not be detrimental to the survival of the species.

Whenever available information from the States or other sources indicates a possible problem in a particular State, the Scientific Authority will conduct a comprehensive review of accumulated information to determine whether conclusions about the treatment of these species as listed for similarity of appearance need to be adjusted in the State.

Originally a common resident of Missouri, river otters were nearly extirpated from the State between 1860 and 1910. Seventy animals were estimated to survive in the southeastern part of Missouri by the mid-1930's. Because most significant habitat change has occurred more recently, it is believed that this early population decline was a consequence of unregulated harvest. Although legal protection for the species was established in 1937, the species did not begin to stage a recovery until a reintroduction program was initiated in 1982. Between 1982 and 1993, 845 river otters obtained from Louisiana, Arkansas, and Ontario were released in 13 of 14 major watersheds in Missouri. All otters were marked with ear and web tags to maximize reporting rate of encounters and to facilitate monitoring of reproductive success.

During the experimental release program, the following management procedures were implemented: (a) restrictive beaver-trapping regulations to reduce incidental catch of otters in the vicinity of release sites, (b) routine examination of carcasses recovered, (c) winter aerial surveys for otter sign (tracks, slides), (d) distribution of forms for reporting incidental sightings of otters for use statewide, and (e) a radiotelemetry study to monitor movements and survival of released animals.

In the population of 31 radio-tagged animals released at two sites between 1982 and 1984, annual survival rate was determined to be 81 percent. Since 1987, 255 (96 percent) of 266 otters reported trapped incidental to other trapping operations were untagged, suggesting that animals tagged and released were also reproducing successfully. Examination of female carcasses recovered during this program indicated an average litter size of 2.5, comparable to average litter sizes in other studies. Using this information, supplemented by estimates of age-specific pregnancy rates based on studies of other populations, a population modelling exercise was conducted for each watershed in which otters were released. Application of the model yielded a statewide population estimate of 2,500 river otters in watersheds where releases were made (3,000 to 3,200 for the entire State, including the southeastern sector) in the spring of 1995. Using the same model and assuming a harvest rate of 10 percent and a constant rate of population growth, populations in the release areas in year 2000 were projected based on two competing scenarios: (a) That all trapping mortality is offset by declines in other mortality sources (compensatory mortality) and (b) that all trapping mortality is additive to other mortality sources (additive mortality). In scenario (a) the population increases from 2,500 to 5,900 by the year 2000 and in scenario (b), after a brief decline, it increases from 2,500 to 3,300. The true population trajectory is likely to lie between these two model projections.

Except for the immediate vicinities of the Missouri and Mississippi Rivers, and the largely cleared bottomland hardwood forest habitats of the southeastern sector, there appears to be adequate aquatic habitat in Missouri to support a growing river otter population. There are 15,700 miles of smaller permanent streams and an additional 39,600 miles of intermittent streams. There are also hundreds of thousands of acres of natural and impounded wetlands of various sizes.

When harvest is legalized, all otters taken by trappers in Missouri will be subject to mandatory pelt registration,

and the Department of Conservation will tag all commercial pelts with CITES export tags. Skulls and carcasses will be obtained from willing fur buyers and dealers and cooperating trappers. These procedures will allow the size, demography, and geographic sources of the river otter harvest to be monitored. The State also intends to continue winter aerial surveys and compare results of population modelling with population indices derived from the surveys and from harvest patterns and sighting reports. Analysis of these data should detect population declines symptomatic of either an unhealthy population or overharvest in time to take corrective action through regulatory adjustments or other means.

Based upon (a) the above biological information provided by the Missouri Department of Conservation, (b) the existence of a harvest management infrastructure for managing and enforcing harvest regulations, and (c) the determination that permitting and tagging requirements will eliminate the possibility that other similar-appearing, CITES-listed species in trade will be misrepresented as river otters, the Service proposes to issue Scientific Authority advice in favor of export of river otters harvested in 1996–97 and subsequent seasons from Missouri.

Management Authority Findings

Exports of Appendix II species are allowed under CITES only if the Management Authority is satisfied that the specimens were not obtained in contravention of laws for the protection of the involved species. The Service, therefore, must be satisfied that the river otter pelts, hides, or products being exported were not obtained in violation of State, Indian Nation, Tribal, Reservation, or Federal law in order to allow export. Evidence of legal taking for Alaskan gray wolf, Alaskan brown or grizzly bear, American alligator, bobcat, lynx, and river otter is provided by State or tribal tagging programs. The Service annually contracts for the manufacture and delivery of special CITES animal-hide tags for export-qualified States and Indian Nations, Tribes, and Reservations. The Service has adopted the following export requirements for the 1983–84 and subsequent seasons:

(1) Current State or Indian Nation, Tribe, or Reservation hunting, trapping, and tagging regulations and sample tags must be on file with the Office of Management Authority;

(2) The tags must be durable and permanently locking and must show U.S.-CITES logo, State or Indian Nation, Tribe, or Reservation of origin, year of take, species, and a unique serial number;

(3) The tag must be attached to all pelts taken within a minimum time after take, as specified by the State and Indian regulation, and such time should be as short as possible to minimize movement of untagged pelts;

(4) The tag must be permanently attached as authorized and prescribed by the State or Indian regulation;

(5) Takers/dealers who are licensed/registered by States or Indian Nations, Tribes, or Reservations must account for tags received and must return unused tags to the State or Indian Nation, Tribe, or Reservation within a specified time after the taking season closes; and,

(6) Fully manufactured fur (or hide) products may be exported from the United States only when the CITES export tags, removed from the hides used to make the product being exported, are surrendered to the Service prior to export.

Proposed Export Decision

The Service proposes to approve exports of Missouri river otters harvested during the 1996–97 or subsequent harvest seasons on the grounds that both Scientific Authority and Management Authority criteria have been satisfied.

Comments Solicited

The Service requests comments on these proposed findings and the proposed rulemaking adding Missouri to the list of States approved for export of river otters. The final decision on this proposed rule will take into account comments received and any additional information received. Such consideration may lead to findings different from those presented in this proposal.

Effects of the Rule and Required Determinations

The Department has previously determined (48 FR 37494, August 18, 1983) that the export of river otters of various States and Indian Tribes or Nations, taken in the 1983–84 and subsequent harvest seasons, is not a major Federal action that would significantly affect the quality of the human environment under the National Environmental Policy Act (42 U.S.C. 4321–4347). This action is covered under an existing Departmental categorical exclusion for amendments to approved actions when such changes have no potential for causing substantial environmental impact.

This proposed rule was not subject to Office of Management and Budget review under Executive Order 12866 and will not have significant economic effects on a substantial number of small entities as outlined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because the existing rule treats exports on a State-by-State and Indian Nation-by-Indian Nation basis and proposes to approve export in accordance with a State or Indian Nation, Tribe, or Reservation management program, the proposed rule will have little effect on small entities in and of itself. The proposed rule will allow continued international trade in river otters from the United States in accordance with CITES, and it does not contain any Federalism impacts as described in Executive Order 12612.

This proposed rule has been examined under the Paperwork Reduction Act of 1995 and has been found to contain no information collection requirements.

This proposed rule is issued under authority of the Endangered Species Act of 1973 as amended (16 U.S.C. 1531 *et seq.*). The authors are Marshall A. Howe, Office of Scientific Authority, and Carol Carson, Office of Management Authority.

List of Subjects in 50 CFR Part 23

Endangered and threatened species, Exports, Imports, Treaties.

PART 23—ENDANGERED SPECIES CONVENTION

Accordingly, the Service proposes to amend Part 23 of Title 50, Code of Federal Regulations, as set forth below:

1. The authority citation for Part 23 continues to read as follows:

Authority: Convention on International Trade in Endangered Species of Wild Fauna and Flora, 27 U.S.T. 1087; and Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

2. In Subpart F—Export of Certain Species, revise § 23.53 to read as follows:

§ 23.53 River otter (Lontra canadensis).

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this part:

(a) States and Harvest Seasons Approved for Export of River Otter From the United States.

	1977–78[1]	1978–79[2]	1979–80[3]	1980–81	1981–82	1982–83	1983–84 and future	1995–96 and future	1996–97 and future
Alabama	Q	+	+	+	+	+	+	+	+
Alaska	+	+	+	+	+	+	+	+	+
Arkansas	Q	+	+	+	+	+	+	+	+
Connecticut	Q	+	+	+	+	+	+	+	+
Delaware	Q	+	+	+	+	+	+	+	+
Florida	Q	+	+	+	+	+	+	+	+
Georgia	Q	+	+	+	+	+	+	+	+
Louisiana	Q	+	+	+	+	+	+	+	+
Maine	Q	+	+	+	+	+	+	+	+
Maryland	Q	+	+	+	+	+	+	+	+
Massachusetts	Q	+	+	+	+	+	+	+	+
Michigan	Q	+	+	+	+	+	+	+	+
Minnesota	Q	+	+	+	+	+	+	+	+
Mississippi	Q	+	+	+	+	+	+	+	+
Missouri	–	–	–	–	–	–	–	–	+
Montana	Q	+	+	+	+	+	+	+	+
New Hampshire	Q	+	+	+	+	+	+	+	+
New Jersey	-	-	-	-	-	+	+	+	+
New York	Q	+	+	+	+	+	+	+	+
North Carolina	Q	+	+	+	+	+	+	+	+
Oregon	Q	+	+	+	+	+	+	+	+
Penobscot Nation	-	-	-	-	-	-	+	+	+
Rhode Island	Q	+	–	–	–	–	–	–	–
South Carolina	Q	+	+	+	+	+	+	+	+
Tennessee	–	–	–	–	–	–	–	+ *	+
Vermont	Q	+	+	+	+	+	+	+	+
Virginia	Q	+	+	+	+	+	+	+	+
Washington	Q	+	+	+	+	+	+	+	+
Wisconsin	Q	+	+	+	+	+	+	+	+

[1] For further information see 42 FR 43729, Aug. 30, 1977; 43 FR 11081, Mar. 16, 1978; and 43 FR 29469, July 7, 1978.

[2] For further information see 43 FR 11096, Mar. 16, 1978; 43 FR 13913, Apr. 3, 1978; 43 FR 15097, Apr. 10, 1978; 43 FR 29469, July 7, 1978; 43 FR 35013, Aug. 7, 1978; 43 FR 36293, Aug. 16, 1978; and 43 FR 39305, Sept. 1, 1978.

[3] For further information see 44 FR 25383, Apr. 30, 1979; 44 FR 31583, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, Sept. 7, 1979; and 44 FR 55540, Sept. 26, 1979.

Q Export approved with quota.

+ Export approved.

– Export not approved.

* Export for 1994–95 approved administratively.

(b) Condition on export: Each pelt must be clearly identified as to species, State of origin and season of taking by a permanently attached, serially numbered tag of a type approved by the Service and attached under conditions established by the Service. Exception to tagging requirement: finished furs and fully manufactured fur products may be exported from the U.S. when the State export tags, removed from the pelts used to manufacture the product being exported, are surrendered to the Service before export. Such tags must be removed by cutting the tag straps on the female side next to the locking socket of the tag, so that the locking socket and locking tip remain joined.

Dated: February 21, 1996.

Geroge T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96–7979 Filed 4–1–96; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 676

[Docket No. 960321089–6089–01; I.D. 031396B]

RIN 0648–AG41

Limited Access Management of Federal Fisheries In and Off of Alaska; Allow Processing of Non-Individual Fishing Quota Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would implement Amendment 33 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) and Amendment 37 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA). These amendments are necessary to allow fuller use of the fishery resources in and off of Alaska. This action is intended to allow persons that are authorized to harvest individual fishing quota (IFQ) sablefish based on an annual allocation of IFQ resulting from sablefish quota share (QS) assigned to categories of catcher vessels equal or greater than 60 ft (18.3 m) in length overall to process species other than IFQ halibut and IFQ sablefish.

DATES: Comments must be received by May 17, 1996.

ADDRESSES: Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, Room 453, 709 W. 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel. Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) for this action may be obtained from the above address.

FOR FURTHER INFORMATION CONTACT: John Lepore, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

Beginning with the 1995 fishing season, the Pacific halibut (*Hippoglossus stenolepis*) and sablefish (*Anoplopoma fimbria*) fixed gear fisheries in the IFQ regulatory areas defined in 50 CFR 676.11 have been managed under the IFQ Program. The IFQ Program is a regulatory regime designed to promote the conservation and management of these fisheries and to further the objectives of the Magnuson Fishery Conservation and Management Act and the Northern Pacific Halibut Act. Persons holding QS, which represents a transferable harvest privilege, receive an annual allocation of IFQ. These persons are authorized to harvest, within specified limitations, IFQ species. Further information on the implementation of the IFQ Program, and the rationale supporting it, is contained in the preamble to the final rule implementing the IFQ Program published in the Federal Register, November 9, 1993 (58 FR 59375). Additions and/or changes to the final rule implementing the IFQ Program were published June 1, 1994 (59 FR 28281); August 24, 1994 (59 FR 43502), corrected October 13, 1994 (59 FR 51874); October 7, 1994 (59 FR 51135); February 2, 1995 (60 FR 6448); March 3, 1995 (60 FR 11916); March 6, 1995 (60 FR 12152); May 5, 1995 (60 FR 22307); August 8, 1995 (60 FR 40304); August 31, 1995 (60 FR 45378); and November 28, 1995 (60 FR 58528).

Amendments 33 and 37 would allow persons who are authorized to harvest IFQ sablefish based on an annual allocation of IFQ resulting from sablefish QS assigned to vessel categories B or C to process species other than IFQ halibut and IFQ sablefish. Changes to the regulatory text of the IFQ Program would be necessary to implement this new policy, if it is approved. The definitions of ''freezer vessel'' and ''catcher vessel'' would be removed and a definition of ''processing'' would be added. References to the removed definitions would be replaced with alternative language. A provision would be added to allow the processing of fish, other than IFQ halibut and IFQ sablefish, onboard vessels on which persons are harvesting IFQ sablefish based on an annual allocation of IFQ resulting from sablefish QS assigned to vessel categories B and C (catcher vessels that are greater than 60 ft (18.3 m) length overall). A detailed explanation of the proposed changes follows:

Removal of the ''Freezer Vessel'' and ''Catcher Vessel'' Definitions

After evaluating the effects that Amendments 33 and 37 would have on the IFQ Program, NMFS determined that the definitions of ''freezer vessel'' and ''catcher vessel'' at § 676 subparts B and C are unnecessary and now proposes their removal. NMFS proposes to replace these definitions with the same definition of ''processing'' found at §§ 672.2 and 675.2.

This proposed definition would be important to the revised specifications of vessel categories at § 676.20(a)(2). Vessel category A, currently described as ''freezer vessels of any length,'' would be changed to vessels of any length authorized to process IFQ species. QS and the resulting IFQ is designated by IFQ species; therefore, a person could only process the IFQ species designated on the IFQ permit (i.e., IFQ halibut or IFQ sablefish). The authorization to process IFQ species is an inherent characteristic of QS assigned to vessel category A. This determination was made at initial issuance based on criteria found at § 676.20(c). The other vessel categories (B, C, and D) found at § 676.20(a)(2) also would not refer to the removed definitions.

Other Changes to the Regulations Due to the Removal of the ''Freezer Vessel'' and ''Catcher Vessel'' Definitions

As explained above, § 676.20(a)(2) would no longer refer to freezer vessels or catcher vessels, but rather would describe vessel categories in terms of: (1) Vessel length; (2) specific species designations (i.e., vessel category D for IFQ halibut only); and (3) authorization to process IFQ species. Similarly, any other references in § 676 subparts B and C to freezer vessels or catcher vessels would be removed.

For example, § 676.16(o) would prohibit persons from having processed and unprocessed IFQ species on board a vessel during the same trip. This would replace the current prohibition on operating as a catcher vessel and a freezer vessel during the same trip. This

change, along with the addition of § 676.22(k), would allow a person who is authorized to harvest IFQ sablefish based on an annual allocation of IFQ resulting from sablefish QS assigned to vessel categories B or C to process fish other than IFQ halibut or IFQ sablefish, a behavior consistent with the Council's intent in proposing Amendments 33 and 37. Currently, a person who is authorized to harvest IFQ sablefish based on an annual allocation of IFQ resulting from sablefish QS assigned to vessel categories B or C is not allowed to process fish other than IFQ halibut or IFQ sablefish on board the harvesting vessel, because the definition of freezer vessel included the processing of any fish, whether it were IFQ species or not. Other sections in which the specific vessel categories would replace references to freezer vessels and catcher vessels are: §§ 676.21(f)(1) through (4), and (g); and §§ 676.22(i), (i)(1), (i)(2), (j), (j)(1), and (j)(4).

Processing Fish Other Than IFQ Halibut or IFQ Sablefish

A new paragraph, § 676.22(k), would be added to allow processing of fish, other than IFQ halibut or IFQ sablefish, on board the harvesting vessel by persons who are authorized to harvest IFQ sablefish based on an annual allocation of IFQ resulting from sablefish QS assigned to vessel categories B or C. Without this proposed change, fish, other than IFQ halibut or IFQ sablefish, could not be processed on board the harvesting vessel if, along with that fish, IFQ sablefish were harvested by a person who is authorized to harvest IFQ sablefish based on an annual allocation of IFQ resulting from sablefish QS assigned to vessel categories B and C. The current prohibition on processing fish, other than IFQ halibut or IFQ sablefish, on category B or C vessels has resulted in the unanticipated waste of fish caught incidentally with IFQ sablefish because sablefish can be preserved longer on ice than some incidentally caught fish (e.g., Pacific cod). The longer ''shelf life'' of fresh sablefish allows a typical sablefish longline trip to exceed the time period in which fish other than IFQ halibut or IFQ sablefish maintains sufficient quality to market as fresh fish. This often results in the discard of some or all incidentally caught fish. Also, persons are required to retain Pacific cod and rockfish caught incidentally to IFQ sablefish. This forces persons who are authorized to harvest IFQ sablefish based on an annual allocation of IFQ resulting from sablefish QS assigned to vessel categories B and C to keep Pacific cod and rockfish caught incidentally with IFQ sablefish, even though the value of the Pacific cod and rockfish is diminished during a long sablefish trip. The Council intended that Amendments 33 and 37 address the lost revenue that occurs because fish other than IFQ halibut and IFQ sablefish are discarded, or if not discarded, landed in poor condition, due to the current prohibition on processing fish, other than IFQ halibut and IFQ sablefish.

Section 676.22(i)(3) would be unnecessary with the addition of § 676.22(k) and the removal of the definitions of ''freezer vessel'' and ''catcher vessel.'' Furthermore, some of the provisions in § 676.22(i)(3) were contrary to the purposes of Amendments 33 and 37. For example, a person could not harvest IFQ sablefish with IFQ resulting from sablefish QS assigned to vessel categories B or C if ''frozen or otherwise processed fish products'' were on the vessel, whether the frozen or otherwise processed fish was IFQ halibut or IFQ sablefish, or fish other than those species. The intent of the proposed action is to allow persons to harvest IFQ sablefish with IFQ resulting from sablefish QS assigned to vessel categories B or C, even if frozen or otherwise processed fish other than IFQ halibut or IFQ sablefish are on board the harvesting vessel.

The authorization to process fish, other than IFQ halibut or IFQ sablefish, would not extend to persons who are authorized to harvest IFQ halibut based on an annual allocation of IFQ resulting from halibut QS assigned to vessel categories B, C, or D. The Council declined to extend the IFQ sablefish exemption to IFQ halibut due to the socio-economic differences between the fisheries. The halibut fishery characteristically is prosecuted by local vessels that do not have on-board processing capabilities. The Council does not intend to change this characteristic of the halibut fishery. Also, not extending the authorization to process fish other than IFQ sablefish and IFQ halibut to persons that are authorized to harvest IFQ halibut based on an annual allocation of IFQ resulting from halibut QS assigned to vessel categories B, C, or D is consistent with one of the objectives of the IFQ Program, which is to maintain a diverse fleet where all segments, and the social structures associated with those segments, continue to exist. The prohibition on processing on board the harvesting vessel by persons harvesting IFQ species with IFQ resulting from QS assigned to specific vessel categories is one method of accomplishing that objective. The Council expressed concern that if the owners of large, industrial-type vessels that process their catch could harvest IFQ species with IFQ resulting from QS assigned to vessel categories B, C, or D while processed fish is on board, these owners would acquire the majority of the ''catcher vessel'' QS. The result would be an increase in harvesting of IFQ species on large, industrial-type vessels that process their catch and a decrease in harvesting of IFQ species on small vessels that do not have processing capabilities. These small vessels that do not have processing capabilities are more likely to make landings at local coastal communities. The Council determined that phasing out small vessels that do not have processing capabilities, and which would not be able to compete with the large, industrial-type vessels that process their catch for available IFQ, would have a detrimental socio-economic impact on coastal communities. This is especially true for halibut IFQ. Many coastal communities rely on the delivery of halibut harvested by persons operating small vessels that do not have processing capabilities as a source of revenue.

Classification

An EA/RIR was prepared for this proposed rule that describes the management background, the purpose and need for action, the management action alternatives, and the social impacts of the alternatives. The EA/RIR estimates the total number of small entities affected by this action, and analyzes the economic impact on those small entities. Based on the analysis, it was determined that this proposed rule does not have a significant economic impact on a substantial number of small entities, and the Assistant General Counsel for Legislation and Regulation of the Department of Commerce so certified to the Chief Counsel for Advocacy of the Small Business Administration. The EA/RIR also supports the finding of no significant impact on the human environment by this action. Copies of the EA/RIR can be obtained from NMFS (see **ADDRESSES**).

This proposed rule will not change the collection of information approved by the Office of Management and Budget, OMB Control Number 0648–0272, for the Pacific halibut and sablefish IFQ Program.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 676

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: March 27, 1996.

Charles Karnella,

Acting Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 676 is proposed to be amended as follows:

PART 676—LIMITED ACCESS MANAGEMENT OF FEDERAL FISHERIES IN AND OFF OF ALASKA

1. The authority citation for 50 CFR part 676 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.* and 1801 *et seq.*

2. Section 676.11 is amended by removing the definitions of ''Catcher vessel'' and ''Freezer vessel'' and by adding the definition of ''Processing'', in alphabetical order, to read as follows:

§ 676.11 Definitions.

* * * * *

Processing, or *to process*, means the preparation of fish to render it suitable for human consumption, industrial uses, or long-term storage, including but not limited to cooking, canning, smoking, salting, drying, freezing, or rendering into meal or oil, but does not mean icing, bleeding, heading, or gutting.

* * * * *

3. In § 676.16 paragraph (o) is revised to read as follows:

§ 676.16 General prohibitions.

* * * * *

(o) Have processed and unprocessed IFQ species on board a vessel during the same trip except when fishing exclusively with IFQ derived from vessel category A quota shares.

* * * * *

4. In § 676.20 paragraph (a)(2) is revised to read as follows:

§ 676.20 Individual allocations.

* * * * *

(a) * * *

(2) *Vessel categories*. Quota shares assigned to vessel categories include:

(i) Category A quota share, which authorizes an IFQ cardholder to catch and process IFQ species on a vessel of any length;

(ii) Category B quota share, which authorizes an IFQ cardholder to catch IFQ species on a vessel greater than 60 ft (18.3 m) in length overall;

(iii) Category C quota share, which authorizes an IFQ cardholder to catch IFQ sablefish on a vessel less than or equal to 60 ft (18.3 m) in length overall, or which authorizes an IFQ cardholder to catch IFQ halibut on a vessel greater than 35 ft (10.7 m) but less than or equal to 60 ft (18.3 m) in length overall; and

(iv) Category D quota share, which authorizes an IFQ cardholder to catch IFQ halibut on a vessel less than or equal to 35 ft (10.7 m) in length overall.

* * * * *

5. In § 676.21 paragraphs (f) and (g) are revised to read as follows:

§ 676.21 Transfer of QS and IFQ.

* * * * *

(f) *Transfer restrictions*. (1) Except as provided in paragraph (e) or paragraph (f)(2) of this section, only persons who are IFQ crew members, or that were initially assigned QS assigned to vessel categories B, C, or D, and meet the other requirements in this section may receive QS assigned to vessel categories B, C, or D.

(2) Except as provided in paragraph (f)(3) of this section, only persons who are IFQ crew members may receive QS assigned to vessel categories B, C, or D in IFQ regulatory area 2C for halibut or in the IFQ regulatory area east of 140° W. long. for sablefish.

(3) Individuals who were initially issued QS assigned to vessel categories B, C, or D may transfer that QS to a corporation that is solely owned by the same individual. Such transfers of QS assigned to vessel categories B, C, or D in IFQ regulatory area 2C for halibut or in the IFQ regulatory area east of 140° W. long. for sablefish are governed by the use provisions of § 676.22(i); the use provisions pertaining to corporations at § 676.22(j) do not apply in this situation.

(4) The Regional Director will not approve an Application for Transfer of QS assigned to vessel categories B, C, or D subject to a lease or any other condition of repossession or resale by the person transferring QS, except as provided in paragraph (g) of this section, or by court order, operation of law, or as part of a security agreement. The Regional Director may request a copy of the sales contract or other terms and conditions of transfer between two persons as supplementary information to the transfer application.

(g) *Leasing QS (applicable until January 2, 1998).* A person may not use IFQ resulting from a QS lease for harvesting halibut or sablefish until an Application for Transfer complying with the requirements of paragraph (b) of this section and the lease agreement are approved by the Regional Director. A person may lease no more than 10 percent of that person's total QS assigned to vessel categories B, C, or D for any IFQ species in any IFQ regulatory area to one or more persons for any fishing year. After approving the Application for Transfer, the Regional Director will change any IFQ accounts affected by an approved QS lease and issue all necessary IFQ permits. QS leases must comply with all transfer requirements specified in this section. All leases expire on December 31 of the calendar year for which they are approved.

* * * * *

6. In § 676.22 paragraph (i), paragraph (j) introductory text, paragraphs (j)(1) and (j)(4) are revised, and paragraph (k) is added to read as follows:

§ 676.22 Limitations on use of QS and IFQ.

* * * * *

(i) *Use of IFQ resulting from QS assigned to vessel categories B, C, or D by individuals*. In addition to the requirements of paragraph (c) of this section, IFQ cards issued for IFQ resulting from QS assigned to vessel categories B, C, or D must be used only by the individual who holds the QS from which the associated IFQ is derived, except as provided in paragraph (i)(1) of this section.

(1) An individual who receives an initial allocation of QS assigned to vessel categories B, C, or D does not have to be aboard and sign IFQ landing reports if that individual owns the vessel on which IFQ sablefish or halibut are harvested, and is represented on the vessel by a master employed by the individual who received the initial allocation of QS.

(2) The exemption provided in paragraph (i)(1) of this section does not apply to individuals who receive an initial allocation of QS assigned to vessel categories B, C, or D for halibut in IFQ regulatory area 2C or for sablefish QS in the IFQ regulatory area east of 140° W. long., and this exemption is not transferrable.

(j) *Use of IFQ resulting from QS assigned to vessel categories B, C, or D by corporations and partnerships*. A corporation or partnership that receives an initial allocation of QS assigned to vessel categories B, C, or D may use the IFQ resulting from that QS and any additional QS acquired within the limitations of this section provided the corporation or partnership owns the vessel on which its IFQ is used, and it is represented on the vessel by a master employed by the corporation or partnership that received the initial allocation of QS. This provision is not transferrable and does not apply to QS assigned to vessel categories B, C, or D for halibut in IFQ regulatory area 2C or for sablefish in the IFQ regulatory area east of 140° W. long. that is transferred to a corporation or partnership. Such transfers of additional QS within these areas must be to an individual pursuant to § 676.21(b) and be used pursuant to paragraphs (c) and (i) of this section.

(1) A corporation or partnership, except for a publicly-held corporation, that receives an initial allocation of QS assigned to vessel categories B, C, or D loses the exemption provided under paragraph (j) of this section on the effective date of a change in the corporation or partnership from that which existed at the time of initial allocation.

* * * * *

(4) QS assigned to vessel categories B, C, or D and IFQ resulting from that QS held in the name of a corporation or partnership that changes, as defined in this paragraph (j), must be transferred to an individual, as prescribed in § 676.21 before it may be used at any time after the effective date of the change.

(k) *Processing of fish other than IFQ halibut and IFQ sablefish*. Fish other than IFQ halibut or IFQ sablefish may be processed on a vessel on which persons:

(1) Are authorized to harvest IFQ halibut or IFQ sablefish based on allocations of IFQ resulting from QS assigned to vessel category A; or

(2) Are authorized to harvest IFQ sablefish based on allocations of IFQ resulting from QS assigned to vessel categories B or C unless any person aboard the vessel is authorized to harvest IFQ halibut based on allocations of IFQ resulting from QS assigned to vessel categories B, C, or D.

[FR Doc. 96–7988 Filed 3–28–96; 3:46 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 61, No. 64
Tuesday, April 2, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. TB–96–19]

National Advisory Committee for Tobacco Inspection Services; Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.) announcement is made of the following committee meeting:

Name: National Advisory Committee for Tobacco Inspection Services.

Date: April 17, 1996.

Time: 1:00 p.m.

Place: United States Department of Agriculture (USDA), Agricultural Marketing Service (AMS), Tobacco Division, 771 Corporate Drive, Suite 500, Lexington, Kentucky 40503–5480.

Purpose: To elect officers, review various regulations issued pursuant to the Tobacco Inspection Act (7 U.S.C. 511 *et seq.*) and to discuss the level of tobacco inspection services currently provided to producers by AMS. The Committee will recommend the desired level of services to be provided to producers by AMS and an appropriate fee structure to fund the recommended services for the 1996–97 selling season.

The meeting is open to the public. Persons, other than members, who wish to address the Committee at the meeting should contact the Director, Tobacco Division, AMS, U.S. Department of Agriculture, Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 205–0567, prior to the meeting. Written statements may be submitted to the Committee before, at, or after the meeting.

Dated: March 28, 1996.

Lon Hatamiya,

Administrator.

[FR Doc. 96–8074 Filed 4–1–96; 8:45 am]

BILLING CODE 3410–02–P

Forest Service

Olympic Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic PIEC Advisory Committee will meet on April 26, 1996 at the Snider Work Center, 553 W. Snider Road, Forks, Washington. The meeting will begin at 9:30 a.m. and continue until 3:30 p.m. Agenda items are: (1) Update on Economic Development Projects for 1996; (2) Forestry Training Center; (3) Jobs in the Woods Update; (4) Update on timber and other programs on the Soleduck District; (5) Status of Watershed Restoration 96 Projects; (6) Open Forum; and (7) Public Comments. All Olympic Province Advisory Committee Meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Kathy Snow, Province Liaison, USDA, Quilcene Ranger District, P.O. Box 280, Quilcene, WA 98376, (360) 765–2211 or Ronald R. Humphrey, Forest Supervisor, at (360) 956–2301.

Dated: March 27, 1996.

Ronald R. Humphrey,

Forest Supervisor.

[FR Doc. 96–7956 Filed 4–1–96; 8:45 am]

BILLING CODE 3410–11–M

Extension of Certain Timber Sale Contracts and Deferral of Periodic Payments

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: Periodically, lumber markets experience significant decreases in price. Purchasers of National Forest System timber are sometimes unable to harvest timber sales with high stumpage prices without incurring losses that threaten bankruptcy, mill closures, or severe economic losses. Government indices indicate a major downturn in the lumber market has occurred from fourth quarter of 1993 to the present. While many Forest Service timber sale contracts contain provisions to extent termination dates during severely declining markets, the mechanisms used in some areas of the country to measure severely declining markets do not appear to be performing as intended. Accordingly, the Under Secretary of Agriculture for Natural Resources and the Environment has determined that it is in the substantial overriding public interest to extend for 120 days certain National Forest System timber sale contracts which terminate prior to August 1, 1995, while the Department considers alternatives to current procedures for contract term additions. In addition to extending contracts pursuant to the Under Secretary's finding, the Forest Service also will defer, for 120 days, periodic payments due on certain contracts prior to August 1, 1996, when such referral is requested by the timber sale purchaser. The intended effect is to minimize contract defaults, mill closures, and company bankruptcies.

DATE: The Under Secretary's determination was made on March 28, 1996.

FOR FURTHER INFORMATION CONTACT: Rex Baumback, Timber Management Staff, Forest Service, USDA, (202) 205–0855.

SUPPLEMENTARY INFORMATION: The Forest Service sells timber from National Forest System lands to individuals or companies. Each sale is formalized by execution of a contract between the purchaser and the Forest Service. The contract sets forth the explicit terms and provisions of the sale, including such matters as the estimated volume of timber to be removed, period for removal, price to be paid to the Government, road construction and logging requirements, and environmental protection measures to be taken. The average contract period is approximately 3 years. Many sales, however, have contract terms of 1 or 2 years, while a few contracts have terms of 7 or 8 years.

The National Forest Management Act of 1976 (16 U.S.C. 472a(c)) provides that the Secretary of Agriculture shall not extent any timber sale contract period with an original term of 2 years or more, unless he finds that the purchaser has diligently performed in accordance with an approved plan of operations or that the ''substantial overriding public interest'' justifies the extension. On December 7, 1990, the Department adopted a final rule at 36 CFR 223.52 permitting, upon written request by purchasers, extension of those contracts requiring periodic payments when the agency determines that adverse wood product market conditions have resulted in a drastic reduction in wood product prices. Purchasers must request such extensions in writing for all subsequent consecutive quarters in which market price indices are depressed. That rule

permits extensions of no more than twice the original contract length or 3 years.

Periodically, lumber markets may experience severe declines in prices. Based on Bureau of Labor Statistics producer price indices, the lumber market peaked in the fourth quarter of 1993. Since then, price indices have declined approximately 25 percent. The Douglas fir dressed lumber price index (commodity code 0801101) used to measure severe market declines in western Oregon and Washington has reflected the market decrease. Timber sale purchasers in this area have received 1 year of additional contract time, if requested. However, the other species dressed lumber price index (commodity code 081103) used to measure severe market declines in other parts of the West and the Northeast does not appear to be as predictable an indicator of market declines as the index used in the Pacific Northwest. As a result, timber sale purchasers in these areas have not received any additional time to complete their contracts. Some of these timber sale purchasers are facing contract default, mill closure, and bankruptcy. Additional contract time would assist these purchasers by giving time in which the market may improve or in which they could mix their high-priced sales with lower-priced sales.

The Government benefits if defaulted timber sale contracts, mill closures, and bankruptcies can be avoided by granting contract extensions, because having numerous, economically viable timber sale purchasers both maintains market opportunities and increases competition for National Forest System timber sales. These factors result in higher prices paid for such timber. In addition, the Government would avoid the difficult and expensive process of collective contract default damages.

The Department is in the process of evaluating alternatives to the existing market-related contract term addition rule. While these alternatives are being evaluated, it is desirable to prevent contract defaults by allowing additional contract time on certain contracts that will terminate before the policy review is complete.

Accordingly, the Under Secretary of Agriculture for Natural Resources and the Environment has made a finding that there is a substantial overriding public interest in extending sales for 120 days while the Department considers options for addressing declining market prices on timber under contract. The text of the finding, as signed by the Under Secretary, is set out at the end of this notice.

In addition, all contracts that use the Bureau of Labor Statistics ''other species dressed'' producer price index (commodity code 081103) to measure market declines may, if requested by the timber sale purchaser, obtain deferral for 120 days of periodic payments that are due prior to August 1, 1996.

Dated: March 28, 1996.

David G. Unger,

Associate Chief.

Determination of Substantial Overriding Public Interest for Extending Certain Timber Sale Contracts

Government indices indicate a major downturn in the lumber market has occurred from fourth quarter of 1993 to the present. While many Forest Service timber sale contracts contain provisions to extend termination dates during severely declining markets, the mechanisms used in some areas of the country to measure severely declining markets do not appear to be performing as intended.

The Douglas fir dressed lumber price index (commodity code 0801101) used to measure severe market declines in western Oregon and Washington has reflected the market decrease. Timber sale purchasers in this area have received 1 year of additional contract time, if requested. However, the other species dressed lumber price index (commodity code 081103) used to measure severe market declines in other parts of the West and the Northeast does not appear to be as predictable an indicator of market declines as the index used in the Pacific Northwest. As a result, timber sale purchasers in these areas have not received any additional time to complete their contracts. Some of these timber sale purchasers are facing contract default, mill closure, and bankruptcy. Additional contract time would assist these purchasers by giving time in which the market may improve or in which they could mix their high-priced sales with lower-priced sales.

The Government benefits if defaulted timber sale contracts, mill closures, and bankruptcies can be avoided by granting contract extensions, because having numerous, economically viable timber sale purchasers both maintains market opportunities and increases competition for National Forest System timber sales. These factors result in higher prices paid for such timber. In addition, the Government would avoid the difficult and expensive process of collecting contract default damages.

Therefore, pursuant to 16 U.S.C. 472a and to the authority delegated to me at 7 CFR 2.19, I have determined that it is in the substantial overriding public interest to extend certain National Forest System timber sale contracts that use the Bureau of Labor Statistics ''other species dressed'' producer price index (commodity code 081103) to measure market changes while the Department evaluates alternatives for changing the current market-related contract term addition rule. Such an extension may be granted, upon a timber sale purchaser's written request, only for 120 days and only on contracts that would otherwise terminate prior to August 1, 1996.

Dated: March 28, 1996.

J.R. Lyons,

Deputy Under Secretary for Agriculture.

[FR Doc. 96–8089 Filed 3–29–96; 10:35 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1996 National Census Survey, aka. Administrative Records Notification Evaluation.

Form Number(s): DN–1A, DN–1B, DN–2A, DN–2B.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 10,030 hours.

Number of Respondents: 27,200.

Avg Hours Per Response: 22 minutes.

Needs and Uses: The Census Bureau is testing the use of administrative records in the Census 2000 to estimate the characteristics of nonresponding households, supplement data for respondents that return incomplete forms, and estimate the number of persons missed within households. To enhance the usability of administrative record information, the Census Bureau is also considering asking respondents in the Census 2000 to provide their Social Security number (SSN). To further research in these areas the Census Bureau plans to conduct the Administrative Records Notification Evaluation (ARNE). Approximately 27,000 respondents nationwide will receive census forms to complete and mail back (both short– and long–form versions will be used). Accompanying the forms will be one of two different introductory letters containing varying statements addressing our use of administrative records. Additionally,

some respondents will be asked to provide their SSN. Response rates to the different mail treatments will assist in the decision of how to inform respondents about our use of administrative records and will measure respondent sensitivity to asking for SSN.

Affected Public: Individuals.

Frequency: One–time.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: March 27, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96– 7948 Filed 4–1–96; 8:45 am]

BILLING CODE 3510–07–F

Bureau of the Census

Census Advisory Committee of Professional Associations; Notice of Public Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92–463 as amended by P.L. 94–409), we are giving notice of an Ad Hoc meeting of the Census Advisory Committee (CAC) of Professional Associations. It will include members of the CAC's of the American Statistical Association subcommittee, and the Population of America Association subcommittee. The meeting will convene on April 25–26, 1996 at the Ramada Seminary Plaza, 4641 Kenmore Avenue, Alexandria, VA 22304.

The subcommittees are composed of nine members each appointed by the Presidents of the American Statistical Association and the Population Association of America. The committee advises the Director, Bureau of the Census, on the full range of Census Bureau programs and activities in relation to the areas of expertise.

The agenda for the meeting on April 25 that will begin at 9 a.m. and end at 5 p.m. is:

- Introductory Remarks.
- Discussion on the 1995 Census Test Design and Results.

The agenda for the meeting on April 26 that will begin at 9 a.m. and end at 12 noon is:

- Continued discussion on the 1995 Census Test Design and Results.
- Closing Session.

The meeting is open to the public, and a brief period is set aside on April 26, during the closing session, for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau Committee Liaison Officer, Ms. Maxine Anderson-Brown, Room 3039, Federal Building 3, Washington, DC 20233, at least three days before the meeting.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation, or other auxiliary aids should also be directed to the Census Bureau Committee Liaison Officer.

Persons wishing additional information or minutes for this meeting, or who wish to submit written statements, may contact the Committee Liaison Officer on 301–457–2308, TDD 301–457–2540.

Dated: March 26, 1996.

Martha Farnsworth Riche,

Director, Bureau of the Census.

[FR Doc. 96–7962 Filed 4–1–96; 8:45 am]

BILLING CODE 3510–07–P

International Trade Administration

[C–357–803, C–357–403, C–357–002, C–357–005]

Initiation of Changed Circumstances Countervailing Duty Administrative Reviews: Leather From Argentina, Wool From Argentina, Oil Country Tubular Goods From Argentina, and Cold-Rolled Carbon Steel Flat-Rolled Products From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Initiation of changed circumstances countervailing duty administrative reviews: Leather from Argentina, wool from Argentina, oil country tubular goods from Argentina, and cold-rolled carbon steel flat-rolled products from Argentina.

SUMMARY: On September 6, 1995, the Court of Appeals for the Federal Circuit, in a case involving imports of Mexican ceramic tile, ruled that, absent an injury determination by the International Trade Commission (ITC), the Department of Commerce (the Department) may not assess countervailing duties under 19 U.S.C. 1303(a)(1) (1988; repealed 1994) on entries of dutiable merchandise which occurred after April 23, 1985, the date Mexico became ''a country under the Agreement.'' *Ceramica Regiomontana* v. *U.S.*, Court No. 95–1026 (Fed. Cir., Sept. 6, 1995) (*Ceramica*).

Argentina attained the status of ''a country under the Agreement'' on September 20, 1991. Therefore, in consideration of the *Ceramica* decision, we are initiating changed circumstances administrative reviews of the countervailing duty orders on leather, wool, oil country tubular goods (OCTG), and cold-rolled carbon steel flat-rolled products from Argentina, which were in effect when Argentina became a country under the Agreement. These orders, which were issued under 19 U.S.C. 1303, have entries that have not yet been liquidated. Other Argentine orders that were in effect at the time Argentina became a country under the Agreement have since been revoked and all entries liquidated.

EFFECTIVE DATE: April 2, 1996.

FOR FURTHER INFORMATION CONTACT: Brian Albright or Cameron Cardozo, Office of Countervailing Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

On September 6, 1995, the Court of Appeals for the Federal Circuit ruled that the Department may not assess countervailing duties under section 19 U.S.C. 1303(a)(1) on entries from Mexico of dutiable merchandise which occurred after April 23, 1985, the effective date of Mexico's Bilateral Agreement with the U.S. through which Mexico became a ''country under the Agreement.'' (*Ceramica* at 8). After Mexico became a ''country under the Agreement,'' the only provision under which the Department could continue to impose countervailing duties was 19 U.S.C. 1671(a)(1988), as amended by Uruguay Round Agreements Act (1994), which requires the ITC to conduct an injury determination. 19 U.S.C. 1671(a)(2). The ITC never conducted an injury investigation regarding imports to the United States of Mexican ceramic tile. As a result, the Department amended the previous revocation of the order on *Ceramic Tile from Mexico* to make the revocation effective April 23, 1985, rather than January 1, 1995, in

recognition of the *Ceramica* decision (61 FR 6630; February 21, 1996).

The effective date of Argentina's bilateral agreement with the United States, under which it attained the status of a ''country under the Agreement,'' is September 20, 1991. To date, the ITC has not conducted injury investigations regarding imports to the United States of Argentine OCTG, leather, wool, or cold-rolled carbon steel flat-rolled products. Therefore, the Department is conducting this review to determine whether it has the authority to assess countervailing duties on entries of these products occurring after September 20, 1991.

The Department is currently conducting administrative reviews of the order on OCTG covering the 1991, 1992, 1993, and 1994 review periods. For the order on cold-rolled carbon steel flat-rolled products, the Department is currently conducting reviews of the 1991, 1992, and 1993 review periods. There are no current reviews of leather and wool.

Previously, all of these countervailing duty orders were determined to be subject to section 753 of the Tariff Act of 1930 (as amended by the Uruguay Round Agreements Act of 1994) (''the Act''). *Countervailing Duty Order; Opportunity to Request a Section 753 Injury Investigation,* 60 FR 27,963 (May 26, 1995). For the order on cold-rolled carbon steel flat-rolled products, because no domestic interested parties exercised their right under section 753(a) of the Act to request an injury investigation, the ITC made a negative injury determination with respect to the order, pursuant to section 753(b)(4) of the Act, and the Department revoked this countervailing duty order, effective January 1, 1995, pursuant to section 753(b)(3)(B) of the Act. *Revocation of Countervailing Duty Orders,* 60 FR 40,568 (August 9, 1995). For each of the orders on OCTG, leather, and wool, a domestic interested party requested an injury investigation pursuant to section 753(a) of the Act. Therefore, these orders are still in effect pending the outcome of the ITC's injury investigation and entries covered by the orders are subject to the following cash deposit rates: OCTG, zero; leather, 8.02 percent to 24.16 percent; and Wool, 6.23 percent.

Scope of the Reviews

OCTG

Imports covered by this review include shipments of Argentine oil country tubular goods. Oil country tubular goods include hollow steel products of circular cross-section intended for use in the drilling of oil or gas and oil well casing, tubing and drill pipe or carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or proprietary specifications. The scope covers both finished and unfinished OCTG. The products covered in this review are provided for under item numbers of the *Harmonized Tariff Schedule* (HTS): 7304.20.20, 7304.20.40, 7304.20.50, 7304.20.60, 7304.20.80, 7304.39.00, 7304.51.50, 7304.20.70, 7304.59.60, 7304.59.80, 7304.90.70, 7305.20.40, 7305.20.60, 7305.20.80, 7305.31.40, 7305.31.60, 7305.39.10, 7305.39.50, 7305.90.10, 7305.90.50, 7306.20.20, 7306.20.30, 7306.20.40, 7306.20.60, 7306.20.80, 7306.30.50, 7306.50.50, 7306.60.70, 7306.90.10. The HTS subheadings are provided for convenience and Customs purposes. The written description remains dispositive.

Wool

Imports covered by these reviews include shipments of Argentine wool finer than 44s and not on the skin. These products are provided for under item numbers of the HTS: 5101.11.60, 5101.19.60, 5101.21.40, and 5101.29.40. The HTS subheadings are provided for convenience and Customs purposes. The written description remains dispositive.

Leather

Imports covered by these reviews include shipments of Argentine leather. The types of leather that are covered include bovine (excluding upper and lining leather not exceeding 28 square feet, buffalo leather, and upholstery leather), sheep (excluding vegetable pretanned sheep and lambskin leather), swine, reptile (excluding vegetable pretanned and not fancy reptile leather), patent leather, calf and kip patent laminated, and metalized leather. Leather is an animal skin that has been subjected to certain treatment to make it serviceable and resistant to decomposition. It is used in the footwear, clothing, furniture and other industries. The types of leather included within the scope are currently classified under HTS item numbers 4104.10.60, 4104.10.80, 4104.21.00, 4104.22.00, 4104.29.50, 4104.29.90, 4104.31.50, 4104.31.60, 4104.31.80, 4104.39.50, 4104.39.60, 4104.39.80, 4105.12.00, 4105.19.00, 4105.20.30, 4105.20.60, 4107.10.00, 4107.29.60, 4107.90.30, 4107.90.60, 4109.00.30, 4109.00.40, and 4109.00.70. The HTS subheadings are provided for convenience and Customs purposes. The written description remains dispositive.

Cold-Rolled Carbon Steel Flat-Rolled Products

Imports covered by these reviews include shipments of Argentine cold-rolled carbon steel flat-rolled products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, not pressed, and not stamped to non-rectangular shape; not coated or plated with metal; over 12 inches in width and under 0.1875 inches in thickness whether or not in coils; as currently provided for under the following item numbers of the HTS: 7209.11.00, 7209.12.00, 7209.13.00, 7209.14.00, 7209.21.00, 7209.22.00, 7209.23.00, 7209.24.00, 7209.31.00, 7209.32.00, 7209.33.00, 7209.34.00, 7209.41.00, 7209.42.00, 7209.43.00, 7209.44.00, 7209.90.00, 7210.70.00, 7211.30.50, 7211.41.70, 7211.49.50, 7211.90.00, 7212.40.50. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Initiation of Changed Circumstances Countervailing Duty Administrative Reviews

We are hereby notifying the public that we are initiating changed circumstances administrative reviews of the countervailing duty orders on leather, wool, OCTG, and cold-rolled carbon steel flat-rolled products from Argentina. The Department is initiating these reviews to determine whether it has the authority to assess countervailing duties on entries of these products occurring after September 20, 1991, the date on which Argentina attained the status as a country under the Agreement. In doing so, the Department will examine, among any other issues raised, the following factors: (1) The applicability of the *Ceramica* decision to the four Argentine cases involved in these reviews; (2) if the *Ceramica* decision is applicable, whether it is necessary to determine if injury exists now or existed at the time of Argentina's bilateral agreement; and (3) the implications of section 753 of the Act on OCTG, leather, and wool (i.e., should the requests for section 753 injury investigations in those cases affect our decisions on the above issues).

We invite interested parties to comment on this action, specifically on the issues detailed above. Interested parties may submit written arguments in case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the

case brief. Parties must specify which of the four orders their comments or rebuttal briefs address. In addition, interested parties may only comment with respect to the order(s) for which they are interested parties; they may not submit comments for the other orders. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) The name of the interested party on behalf of which the argument is submitted, (2) a statement of the issue, and (3) a brief summary of the argument. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38(e).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 355.34(b).

This notice is published in accordance with section 751(b)(1) of the Act (19 U.S.C. 1675(b)(1) and 19 CFR 355.22(h).

Dated: March 22, 1996.

Susan G. Esserman,

Assistant Secretary for Import Administration.

[FR Doc. 96–7892 Filed 4–1–96; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

[Docket No. 960308063–6063–01]

RIN 0693–XX15

Voluntary Product Standard, Request for Comments on Proposed Withdrawal of PS 73–89

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Request for comments on proposed withdrawal of Voluntary Product Standard PS 73–89 Glass Bottles for Carbonated Soft Drinks. .

SUMMARY: NIST announces its intent to withdraw Voluntary Product Standard PS 73–89 Glass Bottles for Carbonated Soft Drinks due to lack of a proponent organization or government agency to cover costs for administrative and technical support services provided by the Department, a requirement for Department sponsorship under Section 10(b)(6) of the Procedures for the Development of Voluntary Product Standards (15 CFR Part 10).

DATES: Written objections to the withdrawal of Voluntary Product Standard PS 73–89 Glass Bottles for Carbonated Soft Drinks must be submitted to Barbara M. Meigs, Technical Standards Activities, office of Standards Services, on or before May 2, 1996.

ADDRESSES: Technical Standards Activities, Office of Standards Services, National Institute of Standards and Technology, Room 164, Building 820, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Barbara M. Meigs, Technical Standards Activities, Office of Standards Services, National Institute of Standards and Technology, Tel: 301–975–4025, Fax: 301–926–1559.

SUPPLEMENTARY INFORMATION: On October 27, 1995, the Glass Packaging Institute (GPI), the proponent organization that has provided financial support to cover costs for administrative and technical support services for Voluntary Product Standard PS 73–89 Glass Bottles for Carbonated Soft Drinks, notified NIST that it did not intend to renew the financial maintenance agreement for the support of PS 73–89. On November 7, 1995, NIST informed the Standing Committee for PS 73–89 and requested assistance in attempting to identify organizations or agencies that might be interested in assuming financial responsibility for the maintenance of the standard. No interested organizations were identified.

As set out in 10.13(a)(2) of the Procedures, NIST will provide a 30-day period for the filing of written objections to the withdrawal. Such objections will be considered and analyzed by the Director of NIST before a determination is made to withdraw the standard. If the Director determines that the standard does not meet the criteria set in 10.0(b) of the Procedures regarding requirements for sponsorship, the standard will be withdrawn, subject to appeal.

Under Section 10.13(b) of the Procedures, the filing under 10.13(a) to retain a standard shall operate to stay the withdrawal of such standard until the Director's determination has been made. If the Director determines that the requested standard shall be withdrawn, the stay will remain in effect if an appeal is filed in accordance with the requirements of Section 10.14 until the decision of the Director is announced in the Federal Register. If, however, no appeal is received, the Director shall announce withdrawal of the standard. Section 10.14 of the Procedures pertains to the handling of appeals that are filed. A copy of this section of the Procedures may be obtained, upon request, from the contact person listed in this notice.

Voluntary Product Standards PS 73–89 Glass Bottles for Carbonated Soft Drinks was developed under the Procedures for the Development of Voluntary product Standards (15 CFR Part 10) of the U.S. Department of Commerce to improve and maintain safety performance of glass bottles designed as containers for carbonated soft drinks. It covers conventional refillable and nonrefillable glass bottles that have a nominal capacity of not more than 36 fluid ounces, and that are intended for use in the packaging of soft drinks carbonated to a maximum of five volumes.

Authority: 15 U.S.C. 272.

Dated: March 27, 1996.

Samuel Kramer,

Assistant Director.

[FR Doc. 96–7890 Filed 4–1–96; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

[I.D. 032696B]

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a joint public meeting of the South Atlantic and Gulf of Mexico Fishery Management Councils' Mackerel Committees; meetings of its Snapper Grouper Advisory Panel (AP), Snapper Grouper Committee, Controlled Access Committee and AP Selection Committee; and a Council session.

DATES: The meetings will be held from April 8–12, 1996. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Comfort Inn Island Suites, 711 Beachview Drive, Jekyll Island, GA; telephone: (912) 635-2211.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306; Charleston, SC 29407-4699.

FOR FURTHER INFORMATION CONTACT: Susan Buchanan, Public Information Officer; telephone: (803) 571-4366; fax: (803) 769-4520.

SUPPLEMENTARY INFORMATION:

Meeting Dates

On April 8, 1996, 1:30 p.m. to 5:30 p.m.—Joint South Atlantic and Gulf Councils' Mackerel Committees will convene. The Mackerel Committees will hear a report summarizing public

hearing comments from the Mid-Atlantic region, then hear a report on spawning potential ratio and overfishing definitions. The Committees will review, revise, and approve measures for Amendment 8 to the Fishery Management Plan (FMP) for Coastal Migratory Pelagic Resources in the South Atlantic and Gulf of Mexico.

April 9, 1996, 8:30 a.m. to 12:00 noon—Joint South Atlantic and Gulf Councils' Mackerel Committees. The Committees will review, revise, and approve measures in Amendment 8 to the FMP for Coastal Migratory Pelagic Resources in the South Atlantic and Gulf of Mexico.

April 9, 1996, 1:30 p.m. to 5:30 p.m.—Joint Snapper Grouper AP, Snapper Grouper Committee, and Controlled Access Committee. The Snapper Grouper AP, Snapper Grouper Committee and Controlled Access Committee will hear the Gag Grouper Assessment Report and the Status of Snowy Grouper and Golden Tilefish 1995/96 Catches. They will then review the draft options paper for Amendments 8 and 9 to the Snapper Grouper FMP and develop advisory panel recommendations for measures for the Council to take to public hearing.

April 10, 1996, 8:30 a.m. to 12:00 noon—Joint Snapper Grouper AP and Snapper Grouper Committee. The Snapper Grouper AP and Committee will receive a Report of the Reef Fishery Economic Survey and a progress report on the Reef Sociocultural Survey. They will develop and approve Committee recommendations for Amendment 8 for public hearing.

April 10, 1996, 1:30 p.m. to 5:00 p.m.—Controlled Access Committee. The Controlled Access Committee will review the draft options paper for Amendment 9 and develop and approve Committee recommendations for public hearing.

April 11, 1996, 8:30 a.m. to 10:30 a.m.—Advisory Panel Selection Committee. The AP Selection Committee will meet in closed session to develop recommendations for the appointment of AP members.

April 11, 1996, 11:00 a.m. to 5:00 p.m.—Council Session; 11:15 a.m. to 12:00 noon—The Council will receive a report from the Executive Committee and will consider and take action on Council development of a weakfish FMP. The Council will also consider taking emergency action for the Spanish mackerel commercial fishery.

1:30 p.m. to 2:00 p.m.—The Council will meet in closed session to receive the AP Selection Committee report, and to appoint new AP members.

2:00 p.m. to 3:30 p.m.—The Council will receive the Mackerel Committee report, take public comment on Amendment 8 and take final action on Amendment 8. They will also receive a NMFS report on the status of king mackerel trip limit regulatory amendment.

3:45 p.m. to 5:00 p.m.—The Council will receive the Snapper Grouper Committee Report and approve measures in Amendment 8 for public hearing.

April 12, 1996, 8:30 a.m. to 12:00 noon—Council Session; The Council will convene and receive the Controlled Access Committee report and approve measures in Amendment 9 for public hearing. They will hear reports on the ICCAT Advisory Committee meeting, and agency and liaison activities. The Council will also hear a presentation on the NMFS logbook program, regulatory amendment review and processing, and discuss other business.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by April 3, 1996.

Dated: March 27, 1996.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 96–7995 Filed 4–1–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 032596E]

Marine Mammals and Endangered Species

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of application for a commercial photography permit (P604).

SUMMARY: Notice is hereby given that Mr. Andrew Byatt, Great Natural Journeys, Natural History Unit, BBC, Whiteladies Road, Bristol, England BS8 2LR, has applied in due form for a permit to take several species of marine mammals for photographic purposes.

DATES: Written comments must be received on or before April 29, 1996.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802 (310/980–4001).

Written data or views, or requests for a public hearing on this request, should be submitted to the Chief, Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

FOR FURTHER INFORMATION CONTACT: Carol Fairfield or Trevor Spradlin, Permits Division, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of section 104(c)(6) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216). Section 104(c)(6) provides for photography for educational or commercial purposes involving non-endangered and non-depleted marine mammals in the wild. NMFS is currently working on proposed regulations to implement this provision. However, in the meantime, NMFS has received and is processing this request as a ''pilot'' application for Level B Harassment of non-listed and non-depleted marine mammals for photographic purposes. The applicant seeks authorization to photograph the following marine mammals: Gray whales (*Eschrichtius robustus*); California sea lions (*Zalophus californianus*); and Northern elephant seals (*Mirounga angustirostris*). The applicant proposes to initiate this work in the spring of 1996.

Concurrent with the publication of this notice in the Federal Register, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 26, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–7989 Filed 3–28–96; 2:14 pm]

BILLING CODE 3510–22–F

[I.D. 032796A]

Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification no. 3 to scientific research permit no. 873 (P772#63).

SUMMARY: Notice is hereby given that a request for modification of scientific research permit no. 873 submitted by the Southwest Fisheries Science Center, NMFS, P.O. Box 271, La Jolla, CA 92038–0271, has been granted.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Suite 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802, (310/980–4016).

SUPPLEMENTARY INFORMATION: On January 30, 1996, notice was published in the Federal Register (61 FR 3001) that a modification of permit no. 873, issued July 28, 1993 (58 FR 34038), had been requested by the above-named organization. The requested modification has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of paragraphs (d) and (e) of § 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*), and the provisions of § 222.25 of the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222).

Permit no. 873 authorized the permit holder to biopsy several species of cetaceans off the Pacific, Southern, and Indian Oceans, and to import biopsy tissues collected outside of U.S. waters. The permit has been modified to authorize the importation of tissue biopsy samples from the following additional species: Bowhead whale (*Balaena mysticetus*), western Pacific gray whale (*Eschrichtius robustus*), and beluga whale (*Delphinapterus leucas*) from Russian territorial waters.

Issuance of this modification, as required by the ESA, was based on a finding that such modification: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: March 27, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–7996 Filed 4–1–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 031896A]

Marine Mammals and Endangered Species; Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of modification request for scientific research permit 968 (P557D); request for comments.

SUMMARY: Notice is hereby given that Scripps Institution of Oceanography has applied in due form for a modification to permit 968 for purposes of scientific research.

DATES: Written comments must be received on or before May 2, 1996.

ADDRESSES: The modification and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Director, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802, (310/980–4016).

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, NOAA, U.S. Department of Commerce, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

SUPPLEMENTARY INFORMATION: The subject modification is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR parts 217–222), the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*), and fur seal regulations at 50 CFR part 215.

The modification requests authorization to include a dual-frequency transmission test 18.5 kilometers southwest of Pioneer Seamount for a period of approximately 2 weeks. Concurrent with the publication of this notice in the Federal Register, the National Marine Fisheries Service is forwarding copies of this modification to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 26, 1996.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–7889 Filed 4–1–96; 8:45 am]

BILLING CODE 3510–22–F

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection of Information; Comment Request—Safety Standard for Cigarette Lighters

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed request for an extension of approval of a collection of information from manufacturers and importers of disposable and novelty cigarette lighters. This collection of information consists of testing and recordkeeping requirements in certification regulations implementing the Safety Standard for Cigarette Lighters (16 CFR Part 1210). The Commission will consider all comments received in response to this notice before requesting an extension of approval of this collection of information from the Office of Management and Budget.

DATES: Written comments must be received by the Office of the Secretary not later than June 3, 1996.

ADDRESSES: Written comments should be captioned ''Cigarette Lighters'' and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East-West Highway, Bethesda, Maryland.

FOR FURTHER INFORMATION CONTACT: For information about the proposed extension of the collection of information, or to obtain a copy of 16 CFR Part 1210 without charge, call or write Nicholas V. Marchica, Director, Office of Planning and Evaluation, Consumer Product Safety Commission,

Washington, DC 20207; telephone (301) 504–0416, extension 2243.

SUPPLEMENTARY INFORMATION: In 1993, the Commission issued the Safety Standard for Cigarette Lighters (16 CFR Part 1210) under provisions of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2051 *et seq.*) to eliminate or reduce risks of death and burn injury from fires accidentally started by children playing with cigarette lighters. The standard contains performance requirements for disposable and novelty lighters which are intended to make cigarette lighters subject to the standard resist operation by children younger than five years of age.

A. Certification Requirements

Section 14(a) of the CPSA (15 U.S.C. 2063(a)) requires manufacturers, importers, and private labelers of a consumer product subject to a consumer product safety standard to issue a certificate stating that the product complies with all applicable consumer product safety standards. Section 14(a) of the CPSA also requires that the certificate of compliance must be based on a test of each product or upon a reasonable testing program.

Section 14(b) of the CPSA authorizes the Commission to issue regulations to prescribe a reasonable testing program to support certificates of compliance with a consumer product safety standard. Section 16(b) of the CPSA (15 U.S.C. 2065(b)) authorizes the Commission to issue rules to require that firms ''establish and maintain'' records to permit the Commission to determine compliance with rules issued under the authority of the CPSA.

The Commission has issued regulations prescribing requirements for a reasonable testing program to support certificates of compliance with the standard for cigarette lighters. These regulations require manufacturers and importers to submit a description of each model of lighter, results of prototype qualification tests for compliance with the standard, and other information before the introduction of each model of lighter in commerce. These regulations also require manufacturers, importers, and private labelers of disposable and novelty lighters to establish and maintain records to demonstrate successful completion of all required tests to support the certificates of compliance which they issue. 16 CFR Part 1210, Subpart B.

The Commission uses the information compiled and maintained by manufacturers, importers, and private labelers of disposable and novelty lighters to protect consumers from risks of accidental deaths and burn injuries associated with those lighters. More specifically, the Commission uses this information to determine whether lighters comply with the standard by resisting operation by young children. The Commission also uses this information to obtain corrective actions if disposable or novelty lighters fail to comply with the standard in a manner which creates a substantial risk of injury to the public.

The Office of Management and Budget (OMB) approved the collection of information in the certification regulations for cigarette lighters under control number 3041–0116. OMB's most recent extension of approval will expire on March 31, 1996. The Commission proposes to request an extension of approval without change for these collection of information requirements.

B. Estimated Burden

The Commission staff estimates that about 45 firms are subject to the testing and recordkeeping requirements of the certification regulations. The Commission staff estimates further that the annual testing and recordkeeping burden imposed by the regulations on each of these firms on average is approximately 175 hours. Thus, the total annual burden imposed by the certification regulations on all manufacturers, importers and private labelers of disposable and novelty cigarette lighters is about 7,875 hours.

The Commission staff estimates that the average hourly cost to reporting firms for the time required to perform the required testing and to maintain the required records is about $50, and that the annual total cost to the industry is approximately $394,000.

During a typical year, the Commission expends approximately two months of professional staff time reviewing records required to be maintained by the certification regulations for disposable and novelty cigarette lighters. The annual cost to the Federal government of the collection of information in these regulations is estimated to be $12,100.

It should be noted that the performance standard for disposable and novelty cigarette lighters is expected to have net benefits of $400 million annually, and to prevent 80 to 105 fire deaths each year.

C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed extension of approval of the collection of information in the certification and recordkeeping regulations for cigarette lighters. The Commission specifically solicits information about the hourly burden and monetary costs imposed by the collection of information on firms subject to this collection of information. The Commission also seeks information relevant to the following topics:

- Whether the collection of information is necessary for the proper performance of the Commission's functions;
- Whether the information will have practical utility for the Commission;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other form of information technology.

Dated: March 28, 1996.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 96–7987 Filed 4–1–96; 8:45 am]

BILLING CODE 6355–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Foster Grandparent and Senior Companion Programs

AGENCY: Corporation for National and Community Service (CNCS).

ACTION: Notice of revision of income eligibility levels for the Foster Grandparent Program and Senior Companion Program.

SUMMARY: This Notice revises the schedules of income eligibility levels for participation in the Foster Grandparent Program (FGP) and Senior Companion Program (SCP), published in 60 FR 19393, April 18, 1995.

The revised schedules are based on changes in the Poverty Guidelines issued by the Department of Health and Human Services (HHS), published in 61 FR 8286, March 4, 1996.

In accordance with program regulations, the income eligibility level for each State and the District of Columbia is 125 percent of the HHS Poverty Guidelines, except in those areas determined by the Corporation to be of higher cost of living. In such instances, the guideline shall be 135 percent of the HHS Poverty levels. The level of eligibility is rounded to the next highest multiple of $5.00.

In determining income eligibility, consideration should be given to the following, as set forth in 59 FR 15120, March 31, 1994:

Allowable medical expenses are annual out-of-pocket expenses for health insurance premiums, health care services, and medications provided to the applicant, enrollee, or spouse and were not and will not be paid for by Medicare, Medicaid, other insurance, or by any other third party and, shall not exceed 15 percent of the applicable Corporation income guideline.

Annual income is counted for the past 12 months and includes: The applicant or enrollee's income and, the applicant or enrollee's spouse's income, if the spouse lives in the same residence. Project directors may count the value of shelter, food, and clothing, if provided at no cost by persons related to the applicant, enrollee or spouse.

Any person whose income is not more than 100 percent of the HHS Poverty Guideline for her/his specific family unit shall be given special consideration for participation in the Foster Grandparent and Senior Companion Programs.

SCHEDULE OF INCOME ELIGIBILITY LEVELS: FOSTER GRANDPARENT AND SENIOR COMPANION PROGRAMS

[1996 FGP/SCP Income Eligibility Levels (Based on 125 Percent of HHS Poverty Guidelines)]

States	Family units of			
	One	Two	Three	Four
All, except High Cost Areas, Alaska and Hawaii	$9,675	$12,950	$16,225	$19,500

(For family units with more than four members, add $3,275 for each additional member in all States except designated High Cost Areas, Alaska and Hawaii)

1996 FGP/SCP INCOME ELIGIBILITY LEVELS FOR HIGH COST AREAS

[Based on 135 Percent of HHS Poverty Guidelines]

Area	Family units of			
	One	Two	Three	Four
All, except Alaska, and Hawaii	$10,450	$13,990	$17,525	$21,060
Alaska	13,045	17,470	21,900	26,325
Hawaii	12,030	16,095	20,160	24,220

(For family units with more than four members, add: $3,540 for all areas, $4,430 for Alaska, and $4,065 for Hawaii, for each additional member)

The income eligibility levels specified above are based on 135 percent of the HHS poverty guidelines and hare applicable to the following high cost metropolitan statistical areas and primary metropolitan statistical areas:

High Cost Areas

(Including all Counties/Locations Included in that Area as Defined by the Office of Management and Budget)

Alaska

(All Locations)

California

Los Angeles—Long Beach (Los Angeles County)
Santa Barbara/Santa Maria/Lompoc (Santa Barbara County)
Santa Cruz-Watsonville (Santa Cruz County)
Santa Rosa-Petaluma (Sonoma County)
San Diego (San Diego County)
San Jose (Santa Clara County)
San Francisco (San Francisco, Marin and San Mateo Counties)
Oakland (Alameda and Contra Costa Counties)
Anaheim-Santa Ana (Orange County)
Oxnard-Ventura (Ventura County)

Connecticut

Stamford (Fairfield County)

District of Columbia/Maryland/Virginia

District of Columbia and Surrounding Counties in Maryland and Virginia. MD counties: Calvert, Charles, Frederick, Montgomery and Prince Georges Counties. VA counties: Arlington, Fairfax, Loudoun, Prince William, Stafford, Alexandria City, Fairfax City, Falls Church City, Manassas City and Manassas Park City.

Hawaii

(All Locations)

Illinois

Chicago (Cook, DuPage and McHenry Counties)

Massachusetts

Boston (Essex, Norfolk, Plymouth and Suffolk Counties)
Salem-Gloucester (Essex County)
Worcester (Worcester County)

New Jersey

Bergen-Passaic (Bergen and Passaic Counties)
Middlesex-Somerset-Hunterdon (Hunterdon, Middlesex and Somerset Counties)
Monmouth-Ocean (Monmouth and Ocean Counties)
Newark (Essex, Morris, Sussex and Union Counties)
Trenton (Mercer County)

New York

Nassau-Suffolk (Suffolk and Nassau Counties)
New York (Bronx, Kings, New York, Putnam, Queens, Richmond and Rockland Counties
Westchester (Westchester County)

Pennsylvania

Philadelphia (Bucks, Chester, Delaware, Montgomery and Philadelphia Counties)

The revised income eligibility levels presented here are calculated from the base HHS Poverty Guidelines now in effect as follows:

1996 HHS POVERTY GUIDELINES FOR ALL STATES

States	Family units of			
	One	Two	Three	Four
All, except Alaska/Hawaii	$7,740	$10,360	$12,980	$15,600
Alaska	9,660	12,940	16,220	19,500
Hawaii	8,910	11,920	14,930	17,940

EFFECTIVE DATE: These guidelines go into effect April 2, 1996.

FOR FURTHER INFORMATION CONTACT: Thomas Endres, Deputy Director, National Senior Service Corps (NSSC) Corporation for National and Community Service, 1201 New York Avenue NW., Washington, DC 20525 or Telephone (202) 606–5000.

SUPPLEMENTARY INFORMATION: These programs are authorized pursuant to Section 211 and 213 of the Domestic Volunteer Service Act of 1973, as amended, Public Law 93–113, 87 Stat. 394. The income eligibility levels are determined by the currently applicable guidelines published by HHS pursuant to Sections 652 and 673 (2) of the Omnibus Budget Reconciliation Act of 1981 which requires poverty guidelines to be adjusted for Consumer Price Index changes.

Dated: March 27, 1996.

James A. Scheibel,

Vice President, Corporation for National and Community Service and Director, National Senior Service Corps.

[FR Doc. 96–7997 Filed 4–1–96; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness).

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed revision to a currently approved public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by June 3, 1996.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness), ODUSD(R&R)/ Defense Manpower Data Center, ATTN: Mr. Ed Halderman, 1600 Wilson Boulevard, Suite 400, Arlington, VA 22209–2593.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call at (703) 696–8584.

Title, Associated Form, and OMB Number: Application for Uniformed Services Identification Card—DEERS Enrollment, DD Form 1172, OMB Number 0704–0020.

Needs and Uses: This information collection requirement is necessary to authorize members of the Uniformed Services, their spouses and dependents, and other authorized individuals certain benefits and privileges. These privileges include health care, use of commissary, base exchange, and morale, welfare and recreation facilities. This information collection is needed to obtain the necessary data to determine eligibility, to provide eligible individuals with an authorization card (identification card) for benefits and privileges administered by the Uniformed Services, and maintain a centralized database of eligible individuals. This information collection may also be used by the military departments and the Defense agencies to issue their non-benefit identification cards.

Affected Public: Individuals or households.

Annual Burden Hours: 409,947.

Number of Respondents: 2,459,785.

Responses per Respondent: 1.

Average Burden per Response: 10 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This information collection identifies those individuals eligible for the benefits and privileges authorized in Sections 1061–1065, 1072–1074c, 1076, 1076a, and 1077 of Title 10 and issuance of the appropriate Uniformed Services identification cards.

The Uniformed Services identification card is the key to authorized usage of military health care, commissary, exchange privileges, and morale, welfare, and recreation facilities. In order to obtain this identification card, an applicant is required to go to an identification card issuing site and complete a DD Form 1172, ''Application for Uniform Services Identification Card—DEERS Enrollment.'' The sponsor, or person authorized to sign the DD Form 1172 in accordance with the criteria established in DoD Instruction 1000.13, provides appropriate dependent information and verification, i.e., birth certificate, marriage license, etc. The information is entered into an automated system by the identification card issuing site and reviewed by the applicant. Once the applicant has reviewed the information for correctness, the sponsor, or person authorized to sign the form, will sign the system-printed DD Form 1172. The DD Form 1172 must be signed by both the sponsor (or person authorized to sign the form) and the verifying official. The person authorized to sign the form must sign it in the presence of the verifying official. On those rare occasions where the sponsor (or personnel authorized to sign the form) is unable to accompany his/her dependent to the identification card issuing site, the signature must be notarized in accordance with the criteria set forth in DoD Instruction 1000.13 prior to verification by the verifying official. This does not happen very often and does not create a significant increase in burden to the public. Once the DD Form 1172 has been properly signed, the form is taken to the identification card issuing site for

issuance of the ID card. The data are transmitted to the Defense Manpower Data Center to be entered into the Defense Enrollment Eligibility Reporting System (DEERS) database. The application is required to update the information once every four years or as changes occur, i.e., reservist entering active duty or being released from active duty.

The information collection may also be used to identify employees and certain contractors of the military departments and Defense agencies for the purpose of issuance of a non-benefit identification card. This group may include civilians and contractors who regularly require official identification in connection with their official business.

Respondents will be: active duty, reserve, and retired personnel of the Uniformed Services (Army, Navy, Air Force, Marine Corps, Coast Guard, US Public Health Service, and NOAA) and their dependents; surviving dependents of deceased active duty and deceased retired personnel; certain Federal employees; certain contract employees; certain State Department employees employed in foreign country and their dependents; any other individuals entitled to care under the Uniformed Services health care program; individuals entitled to Uniformed Services benefits and privileges and a Uniformed Services identification card; any eligible individual who submits a health care claim; and individuals eligible for certain civilian non-benefit identification cards.

Dated: March 28, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–7990 Filed 4–1–96; 8:45 am]

BILLING CODE 5000–04–M

Base Closure and Community Redevelopment and Homeless Assistance Act; Base Realignments and Closures

AGENCY: Department of Defense, Economic Security.

ACTION: Notice.

SUMMARY: This Notice provides the third and final list of closing or realigning military installations pursuant to the 1995 Defense Base Closure and Realignment (BRAC) Report, and the points of contact, addresses, and telephone numbers for the Local Redevelopment Authorities (LRA's) for those installations. Representatives of state and local governments and homeless providers interested in the reuse of an installation should contact the person or organization listed. The following information will be published in a newspaper of general circulation in the area of each installation.

EFFECTIVE DATE: April 2, 1996.

FOR FURTHER INFORMATION CONTACT: Helene O'Connor, Office of Assistant Secretary of Defense for Economic Security, Office of Economic Adjustment, 400 Army Navy Drive, Suite 200, Arlington, VA 22202, (703) 604–5948.

Local Redevelopment Authorities (LRA's) for Closing and Realigning Military Installations

Alabama

Installation Name: Naval Reserve Center Huntsville
LRA Name: City of Huntsville
Point of Contact: Mr. Ken Newberry, City Planning,
Address: P.O. Box 308, Huntsville, AL 35804
Phone: (205) 532–7353

Alaska

Installation Name: Fort Greeley
LRA Name: Delta/Greely Community Coalition
Point of Contact: Mr. Ray Woodruff
Address: P.O. Box 780, Delta Junction, AK 99737
Phone: (907) 895–1081
Installation Name: Naval Air Facility Adak
LRA Name: Adak Reuse Planning Committee
Point of Contact: Mr. Ike Waits
Address: Department of Community and Regional Affairs, State of Alaska, 333 W. 4th Avenue, Suite 220, Anchorage, AK 99501–2341
Phone: (907) 269–4571

California

Installation Name: Long Beach Naval Shipyard (Navy property in the City of Los Angeles)
LRA Name: City of Los Angeles
Point of Contact: Mr. Rudy Svorinich, Jr.
Address: 200 N. Spring Street, City Hall, Room 236, Los Angeles, CA 90012
Phone: (213) 485–3347

Installation Name: Ontario Air National Guard
LRA Name: City of Ontario
Point of Contact: Mayor Gus James Skropos
Address: 303 East ''B'' Street, Civil Center, Ontario, CA 91764–4196
Phone: (909) 986–1151

Connecticut

Installation Name: Stratford Army Engine Plant
LRA Name: Stratford Town Council
Point of Contact: Ms. Diane C. Toolan
Address: Stratford Town Hall, 2725 Main Street, Room 120, Stratford, CT 06498
Phone: (203) 385–4028

Florida

Installation Name: Naval Research Laboratory UWSRD Orlando
LRA Name: Orange County
Point of Contact: Ms. Ceretha G. Leon
Address: 201 S. Rosalind Avenue, 5th Floor, P.O. Box 1393, Orlando, FL 32802
Phone: (407) 836–5362

Guam

Installation Name: Guam Naval Activities (corrected submission)
LRA Name: Government of Guam (acting through the Guam Economic Development Authority)
Point of Contact: Mr. Glenn Leon Guerrero
Address: P.O. Box 2950, Agana, Guam 96910
Phone: (671) 647–4362

Maryland

Installation Name: NSWC CDD Annapolis
LRA Name: David Taylor Naval Research Center Reuse Committee
Point of Contact: Mr. Samuel F. Minnitte, Jr.
Address: Office of the County Executive, 44 Calvert Street, Arundel Center, Annapolis, MD 21401
Phone: (410) 222–1390

Massachusetts

Installation Name: Hingham Cohasset
LRA Name: Town of Hingham Board of Selectman
Point of Contact: Ms. Katherine W. Reardon
Address: 7 East Street, Hingham, MA 02043
Phone: (617) 741–1400

Michigan

Installation Name: Detroit Arsenal/Detroit Army Tank Plant
LRA Name: City of Warren
Point of Contact: Mr. Tom Zemsta
Address: Warren City Hall, 29500 Van Dyke, Warren, MI 48093
Phone: (810) 574–4520

New York

Installation Name: Bellmore Logistics Activity
LRA Name: Bellmore Re-Use Planning Group
Point of Contact: Commissioner Robert Francis, Department of Planning & Economic Development
Address: 200 North Franklin Street, Hempstead, NY 11550
Phone: (516) 489–5000

Installation Name: Griffiss Air Force Base (Property available pursuant to BRAC 95)
LRA Name: Griffiss Local Development Corporation
Point of Contact: Mr. Steven J. DiMeo
Address: 153 Brooks Road, Rome, NY 13441
Phone: (315) 338–0393

Installation Name: Roslyn Air Guard Station
LRA Name: Roslyn Air Guard Station at East Hills, Redevelopment Authority
Point of Contact: Mayor Michael R. Koblenz, Village of East Hills
Address: 20 Town Path, East Hills, NY 11576
Phone: (516) 621–4251

Pennsylvania

Installation Name: Kelly Support Center, North Huntingdon
LRA Name: Redevelopment Authority of the County of Westmoreland
Point of Contact: Mr. William E. Mitchell II
Address: 601 Courthouse Square, Greensburg, PA 15601
Phone: (412) 830–3050

Installation Name: Kelly Support Center, Oakdale
LRA Name: (Will be published at a later date)

Installation Name: NAWD (AD) Warminster (Property available pursuant to BRAC 95)
LRA Name: Federal Lands Reuse Authority of Bucks County
Point of Contact: Mr. Steven W. Rockwell
Address: Building 135 Jacksonville Rd., NAWC, P.O. Box 3049, Warminster, PA 18974
Phone: (215) 957–2310

Puerto Rico

Installation Name: Fort Buchanan
LRA Name: Baymon-Guaynabo, Fort Buchanan Local Redevelopment Authority
Point of Contact: Mr. Johnny Vazquez
Address: Municipality of Guaynabo, Box 7885, Guaynabo, PR 00970
Phone: (787) 720–2542

Texas

Installation Name: Red River Army Depot
LRA Name: Bowie County Local Redevelopment Authority
Point of Contact: Mr. James M. Carlow, County Judge
Address: P.O. Box 248, New Boston, TX 75570–0248
Phone: (214) 628–2571

Installation Name: Reese Air Force Base
LRA Name: Lubbock Reese Redevelopment Committee
Point of Contact: Mr. James E. Bertram
Address: P.O. Box 200, Lubbock, TX 79457
Phone: (806) 767–2013

Wisconsin

Installation Name: Naval Reserve Center
LRA Name: City of Sheboygan
Point of Contact: Mr. Robert R. Peterson
Address: Department of City Development, 807 Center Avenue, Sheboygan, WI 53081
Phone: (414) 459–3377

Dated: March 28, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–7991 Filed 4–1–96; 8:45 am]

BILLING CODE 5000–04–M

Group of Advisors to the National Security Education Board Meeting

AGENCY: Office of the Assistant Secretary of Defense, Strategy and Requirements.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of a forthcoming meeting of the Group of Advisors to the National Security Education Board. The purpose of the meeting is to review and make recommendations to the Board concerning requirements established by the David L. Boren National Security Education Act, Title VII of Public Law 102–183, as amended.

DATED: April 22, 1996.

ADDRESSES: National Security Education Program Office, 1101 Wilson Boulevard—Suite 1210, Arlington, Virginia 22209–2248.

FOR FURTHER INFORMATION CONTACT: Dr. Edmond J. Collier, Deputy Director, National Security Education Program, 1101 Wilson Boulevard, Suite 1210, Rosslyn, P.O. Box 20010, Arlington, Virginia 22209–2248; (703) 696–1991. Electronic mail address: collier@nsep.policy.osd.mil

SUPPLEMENTARY INFORMATION: The Group of Advisors meeting is open to the public.

Dated: March 28, 1996.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 96–7992 Filed 4–1–96; 8:45 am]

BILLING CODE 5000–04–M

Department of the Air Force

USAF Scientific Advisory Board Meeting

The Sensors & Electronics Panel (TARA), USAF Scientific Advisory Board, will meet on 29 April–3 May 1996 at Hanscom AFB, MA from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is for the members to assess compliance with the DDR&E guidance, assess program balance and appropriateness of the objectives, review programs horizontally within a technology area, follow-up on DDR&E approved recommendations, and identify major S&T issues.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–8009 Filed 4–1–96; 8:45 am]

BILLING CODE 3910–01–W

USAF Scientific Advisory Board Meeting

The Air Platforms Panel (TARA), USAF Scientific Advisory Board, will meet on 22–26 April 1996 at Naval Surface Warfare Center, Carderock, MD from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is for the members to assess compliance with the DDR&E guidance, assess program balance and appropriateness of the objectives, review programs horizontally within a technology area, follow-up on DDR&E approved recommendations, and identify major S&T issues.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–8010 Filed 4–1–96; 8:45 am]

BILLING CODE 3910–01–W

USAF Scientific Advisory Board Meeting

The Weapons Panel (TARA), USAF Scientific Advisory Board, will meet on 22–26 April 1996 at Eglin AFB, FL from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is for the members to assess compliance with the DDR&E guidance, assess program balance and appropriateness of the objectives, review programs horizontally within a technology area, follow-up on DDR&E approved recommendations, and identify major S&T issues.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–8011 Filed 4–1–96; 8:45 am]

BILLING CODE 3910–01–W

Department of the Army

Army Science Board; Notice of Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Date of Meeting: 9 & 10 April 1996.

Time of Meeting: 0900–1700 (both days).

Place: Pentagon—Washington, DC.

Agenda: The Army Science Board (ASB) Ad Hoc Study on ''Army Digitization Information System Vulnerabilities and Security'' will meet for briefings and discussions on the study subject. These meetings will be closed to the public in accordance with Section 552b(c) of title 5, U.S.C., specifically subparagraph (4) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The proprietary matters to be discussed are so inextricably intertwined so as to preclude opening any portion of these

meetings. For further information, please contact Michelle Diaz at (703) 695–0781.

Michelle P. Diaz,

Acting Administrative Officer, Army Science Board.

[FR Doc. 96–7975 Filed 4–1–96; 8:45 am]

BILLING CODE 3710–08–M

Rules, Security and Accessorial Services Governing the Movement of Department of Defense Freight Traffic by Barge Carrier

AGENCY: Military Traffic Management Command (MTMC), DOD.

ACTION: Notice.

SUMMARY: MTMC, for the Department of Defense, intends to modify the procedures used to acquire rates and charges from barge carriers. This modification is the issuance of a rules publication designed to standardize and simplify the procurement of rates and services to move military cargo via barge carriers. The publication, MTMC Freight Traffic Rules Publication No. 30 (MFTRP No. 30), will govern barge shipments between locations in the United States and to and from locations in Alaska and Canada. The draft publication may be obtained from the MTMC Home Page on the Internet at the following address: http://baileys—mtmcwww.army.mil. After the MTMC Home Page screen has loaded, access the ''Functional Support'' button on the screen. After the screen appears, access the ''Global Traffic Management'' button on the screen. Then under the ''Freight Movements'' section, access the ''Freight Traffic Rules'' button. Then access ''MFTRP No. 30,'' and the draft publication will download for you to highlight and copy to any word processor to read and/or print. Written comments should reach Headquarters, MTMC, ATTN: MTOP–T–SR; Room 629; 5611 Columbia Pike, Falls Church, VA 22041–5050, not later than May 1, 1996.

FOR FURTHER INFORMATION CONTACT: Headquarters, Military Traffic Management Command, ATTN: MTOP–T–SR, 629 NASSIF Building, 5611 Columbia Pike, Falls Church, VA 22041–5050; or Mr. Julian Jolkovsky at telephone (703) 681–3440, or e-mail jolkovsj@baileys—emh5.army.mil.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–7894 Filed 4–1–96; 8:45 am]

BILLING CODE 3710–08–M

Availability of Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning A Dengue Virus Vaccine

AGENCY: U.S. Army Medical Research and Materiel Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of U.S. Patent Application Serial No. 08/423,338 entitled ''Inactivated Dengue Virus Vaccine'', and filed April 17, 1995, for licensing. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Staff Judge Advocate, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Moran, Patent Attorney, (301) 619–2065 or telefax (301) 619–7714.

SUPPLEMENTARY INFORMATION: The invention describes an inactivated viral vaccine designed to immunize and protect against disease caused by dengue (DEN) viruses, including serotypes one, two, three, and four, i.e. DEN–1, DEN–2, DEN–3, and DEN–4; it also describes a process to produce the vaccine. The process consists of methods to replicate DEN viruses to high titer in a suitable cell substrate, to purify the viruses, and to inactivate them with formalin while maintaining their antigenicity and immunogencity. The vaccine is designed for administration by subcutaneous, intramuscular, or other suitable routes with or without an adjuvant.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–7893 Filed 4–1–96; 8:45 am]

BILLING CODE 3710–08–M

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Diagnosis of, and a Vaccine Against, Dengue Virus

AGENCY: U.S. Army Medical Research and Materiel Command, DOD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability of U.S. Patent Application Serial No. 08/504,878 entitled ''Recombinant Vaccine Against Dengue Virus'', filed July 20, 1995, for licensing. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Staff Judge Advocate, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: Mr. John F. Moran, Patent Attorney, (301) 619–2065 or telefax (301) 619–7714.

SUPPLEMENTARY INFORMATION: The invention describes methods of production and purification of recombinant dengue virus envelope proteins for use as diagnostic reagents or as vaccines and, when combined, as a multivalent vaccine against all four dengue virus serotypes. Each recombinant envelope protein was expressed by baculovirus in insect cells and formed a particle which was purified. This purification process consists of sonication of cell lysates and differential centrifugations. Native antigenic and immunogenic properties are maintained in the purified product. The vaccine is designed for administration by subcutaneous, intramuscular or other suitable routes or without adjuvant.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 96–7895 Filed 4–1–96; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA No.: 84.250]

Office of Special Education and Rehabilitative Services, Vocational Rehabilitation Service Projects for American Indians with Disabilities

ACTION: Withdrawal of notice inviting applications for new awards for fiscal year 1996.

SUMMARY: On August 10, 1995 the Secretary published in the Federal Register (60 FR 40956) a combined application notice (CAN) inviting applications for new awards for fiscal year (FY) 1996 under a number of the Department's direct grant and fellowship programs. Included in the CAN was a notice inviting applications for new awards under the Vocational Rehabilitation Service Projects for American Indians with Disabilities. The purpose of this notice is to withdraw the invitation for applications for new awards under the Vocational Rehabilitation Service Projects for American Indians with Disabilities.

SUPPLEMENTARY INFORMATION: The notice inviting applications for new awards was published prior to the publication

on November 24, 1995 (60 FR 58136), of the final regulations for 34 CFR Part 371, which authorize the Secretary to extend ongoing projects up to an additional two years. The Secretary intends to extend eligible existing projects. This will require the use of a substantial portion of the available FY 1996 funds. The Secretary intends to use the small amount of remaining funds to provide increased grant amounts to existing projects to increase their capacity to serve additional clients and to fund additional applications from the FY 1995 competition that were previously approved but not funded. The FY 1996 competition for new grants is cancelled. It is anticipated that a competition for new grants will be held in FY 1997.

FOR FURTHER INFORMATION CONTACT: Barbara M. Sweeney, U.S. Department of Education, 600 Independence Avenue, SW., Room 3225, Switzer Building, Washington, DC 20202–2650. Telephone: (202) 205–9544. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205–9999.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases); or on the World Wide Web at http//www.ed.gov/money.html However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 29 U.S.C. 795g.

Dated: March 27, 1996.

Howard R. Moses,

Acting Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 96–7935 Filed 4–1–96; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT96–12–000]

Carnegie Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

March 27, 1996.

Take notice that on March 22, 1996, Carnegie Interstate Pipeline Company (CIPCO) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheets, to be effective on April 22, 1996:

First Revised Sheet No. 126
First Revised Sheet No. 127

CIPCO states that the filing updates its compliance with the tariff requirements implementing the Commission's marketing affiliate regulations, as set forth in Section 250.16(b) of the Commission's regulations. The filing revises section 28 of the General Terms and Conditions in CIPCO's tariff.

CIPCO states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, D.C. 20426, in accordance with Section 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7925 Filed 4–1–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP95–31–088, et al.]

National Fuel Gas Supply Corporation; Notice of Motion To Place Into Effect Revised Tariff Sheets

March 27, 1996.

Take notice that on March 22, 1996, National Fuel Gas Supply Corporation (National) submitted for filing, pursuant to Section 4(e) of the Natural Gas Act, as amended, and Section 154.67 of the Commission's Regulations, a motion to place various tariff sheets to its FERC Gas Tariff, Third Revised Volume Nos. 1 and 2, into effect as of the effective dates shown on Appendix A attached to the filing.

National states that on February 16, 1996, the Commission issued a Letter Order approving a settlement offer tendered by National on September 29, 1995, which order became final on March 18, 1996. Pursuant to Article VII of the settlement, National is required to file a motion to place rates into effect on April 1, 1996. The tariff sheets must therefore be made effective pursuant to this motion on their respective effective dates.

National further states that copies of this filing were served upon the company's jurisdictional customers and upon the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts, and New Jersey.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C., 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7926 Filed 4–1–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–31–011, and RP94–367–004]

National Fuel Gas Supply Corporation; Notice of Compliance Filing

March 27, 1996.

Take notice that on March 22, 1996, National Fuel Gas Supply Corporation (National) tendered for filing various tariff sheets as part of its FERC Gas Tariff, Third Revised Volume Nos. 1 and 2, in compliance with the Letter order issued by the Federal Energy Regulatory Commission on February 16, 1996.

National states that under Article IX of the rate settlement and Article VII of the gathering settlement, the tariff sheets became effective on various dates.

National further states that copies of this filing were served upon the company's jurisdictional customers and upon the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts, and New Jersey.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered

by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7927 Filed 4–1–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–182–000]

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 27, 1996.

Take notice that on March 22, 1996, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Fifteenth Revised Sheet No. 5, proposed to be effective April 1, 1996.

National states that this filing reflects an adjustment to the reservation component of the EFT rate pursuant to the Transportation and Storage Cost Adjustment (TSCA) provision set forth in Section 23 of the General Terms and Conditions of National's FERC Gas Tariff. Section 23 authorizes National to recover the costs recorded in Account No. 858 on the ongoing basis. Further, National is authorized to segregate the reservation and commodity costs. While National previously filed under the TSCA to recover commodity costs (*National Fuel Gas Supply Corporation*, 73 FERC ¶ 61,382 (1995)), this is the initial filing under the TSCA to recover reservation costs.

National further states that copies of this filing were served upon the company's jurisdictional customers and upon the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts, and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests must be filed as provided Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois Cashell,

Secretary.

[FR Doc. 96–7928 Filed 4–1–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–183–000]

National Fuel Gas Supply Corporation; Notice of Proposed Changes to FERC Gas Tariff

March 27, 1996.

Take notice that on March 22, 1996, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Ninth Revised Sheet No. 237B, with a proposed effective date of April 22, 1996.

National states that these tariff sheets propose to flow refunds through to National's former RQ and CD customers, including interest, received from certain of National's upstream pipeline-suppliers related to National's Account Nos. 191 and 186, as more fully described on the worksheets attached at Appendix B to the filing.

In accordance with Sections 21(c) and (d) of the General Terms and Conditions of National's tariff, National proposes to allocate the $9,469.55 in commodity refunds according to the customers' commodity sales based on the 12 months ending July 31, 1993.

National further states that copies of this filing were served upon the company's jurisdictional customers and upon the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts, and New Jersey.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). Pursuant to Section 154.210 of the Commission's Regulations, all such motions or protests must be filed not later than 12 days after the date of the filing noted above. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7929 Filed 4–1–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–184–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

March 27, 1996.

Take notice that on March 22, 1996, Natural Gas Pipeline Company of America (Natural) tendered for filing to be part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Second Revised Sheet Nos. 58, 146 and 169, to be effective April 22, 1996.

Natural states that the purpose of the filing is to shorten from thirty (30) days to ten (10 days) the time period within which a shipper must execute a firm Agreement tendered by Natural.

Natural requests whatever waivers may be necessary to permit the tariff sheets as submitted to become effective April 22, 1996.

Natural states that copies of the filing are being mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.W., Washington D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7930 Filed 4–1–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2426–075 California]

California Department of Water Resources and City of Los Angeles; Notice of Availability of Environmental Assessment

March 27, 1996.

An environmental assessment (EA) is available for public review. The EA is for an application to lease approximately 4.25 acres of project lands within the California Aqueduct Project boundary, to the Crestline-Lake Arrowhead Water Authority, for the purposes of expanding an existing water treatment facility. The EA finds that approval of the application would not constitute a major federal action significantly affecting the quality of the human environment. The portion of the California Aqueduct Project affected by the issuance of this lease is located on Silverwood Lake in San Bernardino County, California.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA can be viewed at the Commission's Reference and Information Center, Room 1C–1, 888 First Street NE., Washington, D.C. 20426. Copies can also be obtained by calling the project manager, Patti Pakkala at (202) 219–0025.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7922 Filed 4–1–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–256–000, et al.]

Koch Gateway Pipeline Company, et al., Natural Gas Certificate Filings

March 25, 1996.

Take notice that the following filings have been made with the Commission:

1. Koch Gateway Pipeline Company

[Docket No. CP96–256–000]

Take notice that on March 18, 1996, Koch Gateway Pipeline Company (Koch), P.O. Box 1478, Houston, Texas 77251, filed in Docket No. CP96–256–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act for authorization to abandon and remove a segment of inactive lateral pipeline formerly serving Ohio Gas Company (''Ohio''), under Koch's blanket certificate issued in Docket No. CP82–430–000 [1] pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Koch requests authorization to abandon and remove 1,745 feet of six-inch pipeline designated as TPL 250–11 which connects to Koch's Sarepta-Sterlington 20-inch line located in Webster Parish, Louisiana. Koch states that this lateral line is inactive; and, there are no known potential production or delivery prospects. Koch will remove the line and all above-ground facilities. Koch states the pipeline was originally certificated in Koch's FPC Docket No. G–232 (3 FPC 863). Koch states the abandonment will be accomplished without detriment or disadvantage to its customers.

Comment date: May 9, 1996, in accordance with Standard Paragraph G at the end of this notice.

2. Williston Basin Interstate Pipeline Company

[Docket No. CP96–261–000]

Take notice that on March 19, 1996, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 300, 200 North Third Street, Bismarck, North Dakota 58501, filed in Docket No. CP96–261–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for authorization to abandon in place by sale to Montana-Dakota Utilities Company (Montana-Dakota), a local distribution company, certain facilities and related land rights associated with its existing operations in Sheridan County, Wyoming under Williston Basin's blanket certificate issued in Docket No. CP83–1–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Williston Basin proposes to abandon in place and sell to Montana-Dakota its Sheridan 5th Street Town Border Station and 9,987 feet of 8-inch natural gas transmission pipeline beginning on the north side of the Sheridan Town Border & Telemetering Station and terminating at the Sheridan 5th Street Town Border Station. Williston Basin states that custody transfer and measurement of deliveries of gas to serve the town of Sheridan, Wyoming currently takes place at the Sheridan Town Border & Telemetering Station; consequently, Williston Basin no longer requires the facilities proposed to be abandoned herein. Williston Basin states that the sale price will not exceed $8,718, the actual net book value of the facilities as of December 31, 1995.

Comment date: May 9, 1996, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Company

[Docket No. CP96–265–000]

Take notice that on March 20, 1996, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP96–265–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to operate three delivery points under Tennessee's blanket certificate issued in Docket No. CP82–413–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee proposes to operate three delivery points that were constructed under Section 311(a) of the NGPA. The delivery points are the Springfield-Rock Spring-Sales in Robertson County, Tennessee, Doe Run Sales in Green County, Kentucky, and the Hardeman-Fayette-Moscow Tennessee in Hardeman County, Tennessee.

Comment date: May 9, 1996, in accordance with Standard Paragraph G at the end of this notice.

4. North American Resources Company

[Docket No. CP96–269–000]

Take notice that on March 19, 1996, North American Resources Company (NARCo), C/O Covington & Burling, 1201 Pennsylvania Ave., N.W., P.O. Box 7566, Washington, D.C. 20044–7566, filed in Docket No. CP96–269–000 a petition under Rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207) for a declaratory order stating that a proposed pipeline project in Phillips County, Montana, will be exempt from the Commission's jurisdiction under Section 1(b) of the Natural Gas Act (NGA), all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that NARCo is a subsidiary of The Montana Power Company (MPC) which owns and operates an integrated Hinshaw pipeline entirely located in Montana. NARCo states that it is a producer and marketer of natural gas and oil and owns an estimated 37 Bcf of proven natural gas reserves in the Bowdoin Dome area of northeastern Montana. NARCo states that it currently operates 125 wells in the Bowdoin Dome area. It is stated that the proposed Bowdoin Gas Pipeline is a 12.75-inch

[1] *See*, 20 FERC ¶ 62,416 (1982).

steel pipeline running approximately 18.75 miles between Whitewater, Montana, through a dense production area of the northern Bowdoin Dome, that interconnect with Northern Border Pipeline Company's mainline at the U.S.-Canadian Border.

NARCo states that the pipeline will have a single compressor station located at the upstream end of the pipeline, will operate at a pressure of approximately 1,500 psi and will have a capacity of approximately 60,000 Mcf per day. It is stated that no processing will occur along the line and, initially, no wells will be directly connected to the pipeline. Rather, it is stated that the pipeline will interconnect in Whitewater with the gathering system that currently serves the Bowdoin Dome area, owned by KN Gas Gathering, Inc. (KNGG), a subsidiary of KN Energy. NARCo contends that KNGG will continue gathering gas produced at individual wells, while the proposed Bowdoin Gas Pipeline will extend this gathering line to the interconnection with Northern Border.

It is stated that, in time, NARCo expects to add interconnections along the length of the pipeline. As new wells are developed throughout the area, NARCo expects to add segments of low pressure gathering line with booster compressors that feed into the pipeline. It is stated that the exact location and configuration of these low pressure lines, however, can be determined only as the exploration and development of the northern Bowdoin Dome area unfolds. Until such development solidifies, NARCo intends to rely on KNGG's existing gathering system.

NARCo states that at present, gas on the KNGG gathering system flows south from Whitewater to Saco, Montana, where it interconnects with Williston Basin Interstate Pipeline Company (WBI), which is the only interstate pipeline that serves the Bowdoin Dome area, and operates at full capacity. NARCo contends that as a result, many producers in the area are unable to operate wells at full capacity, or are unable to operate certain wells altogether.

NARCo's principal objective in building the proposed pipeline is to extend the existing gathering system to interconnect with another interstate pipeline, Northern Border. It is stated that Northern Border is presently expanding its existing system to accommodate direct service to Chicago area local distribution companies and other pipeline interconnections. It is stated that by order dated May 5, 1995, the Commission directed Northern Border to hold a new open season in connection with the expansion facilities.

It is stated that this expansion will relieve the capacity constraints that currently prevent NARCo and other producers in the Bowdoin Dome area from producing additional natural gas. It is stated that the Bowdoin Dome area has proven reserves of approximately 500 Bcf and that, at present, 5 producers, including NARCo, operate approximately 1,000 wells in the area. Due to the capacity constraints on the WBI system, however, no firm capacity is presently available and limited interruptible capacity is available only during the summer. It is stated that deliveries from KNGG's Bowdoin system are currently limited to approximately 17 Mmcf/d.

NARCo intends to use a portion of the capacity of the proposed pipeline to gathering gas from its own wells for delivery to Northern Border. It is stated that the remaining portion will be offered to other producers in the Bowdoin Dome area on an open access basis. NARCo contends that, since much of the proposed facility traverses land administered by the U.S. Bureau of Land Management (BLM), it is required by BLM regulations and federal statute to offer gathering services on an open access basis.

Comment date: April 15, 1996, in accordance with the first paragraph of Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7923 Filed 4–1–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. CP96–253–000, et al.]

Ozark Gas Transmission System, et al.; Natural Gas Certificate Filings

March 26, 1996.

Take notice that the following filings have been made with the Commission:

1. Ozark Gas Transmission System

[Docket No. CP96–253–000]

Take notice that on March 15, 1996, Ozark Gas Transmission System (Ozark), 13430 Northwest Freeway, Suite 1200, Houston, Texas, 77040, filed in Docket No. CP96–253–000, an application pursuant to Section 7(c) of the Natural Gas Act (NGA), and Part 157 of the Federal Energy Regulatory Commission's regulations, for a certificate of public convenience and necessity authorizing Ozark to reinstall one previously purchased, installed, operated and subsequently abandoned 1,000-horsepower gas turbine compressor at Ozark's existing Lequire

Compressor Station, located in Haskell County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Comment date: April 16, 1996, in accordance with Standard Paragraph F at the end of this notice.

2. National Fuel Gas Supply Corporation

[Docket No. CP96–264–000]

Take notice that on March 20, 1996, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP96–264–000 an application pursuant to Section 7(b) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations for permission and approval to abandon certain underground natural gas storage facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

National Fuel proposes to abandon three observation wells, and three segments of 2-inch pipeline totaling 1,273 feet. The observation wells will be plugged and the pipeline segments will be removed. The facilities to be abandoned are part of National Fuel's Queen Storage Field in Forest and Warren Counties, Pennsylvania. National Fuel states that it is abandoning the facilities because these observation wells are no longer reliable as pressure indicators for the field, and are not necessary for the continued operation of the Queen Storage Field.

Comment date: April 16, 1996, in accordance with Standard Paragraph F at the end of this notice.

3. Williams Natural Gas Company

[Docket No. CP96–267–000]

Take notice that on March 20, 1996, Williams Natural Gas Company (WNG), P. O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP96–267–000, a request pursuant to Sections 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install and operate a tap, measuring, regulating, and appurtenant facilities for the delivery of transportation gas to Excel Corporation (Excel) in Ford County, Kansas, under its blanket authorization issued in Docket Nos. CP82–479–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

WNG states that the projected annual volume of delivery is estimated to be approximately 730,000 Dth with a peak day volume of 4,000 Dth. WNG states that the estimated cost of construction is $77,770 which will be fully reimbursed by Excel.

WNG further states that this change is not prohibited by any existing tariff and that it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Comment date: May 10, 1996, in accordance with Standard Paragraph G at the end of this notice.

4. Williams Natural Gas Company

[Docket No. CP96–271–000]

Take notice that on March 21, 1996, Williams Natural Gas Company (WNG), 500 Renaissance Center, Detroit, Michigan 48423, filed in Docket No. CP96–271–000 an application pursuant to Sections 7 (b) and (c) of the Natural Gas Act requesting a blanket certificate of public convenience and necessity, authorizing WNG to install and operate mobile compressors on a temporary basis while existing compressors are undergoing maintenance, and permission and approval to abandon the compressors, all as more fully set forth in the application on file with the Commission and open to public inspection.

It is stated that WNG requires the blanket certificate in order to maintain throughput in the event of scheduled or unscheduled maintenance. It is explained that WNG will attempt to achieve comparable horsepower and deliverability with temporary compressors as that which is available with the permanent compressors. It is asserted that the blanket certificate will enable WNG to install temporary compression without a prior filing and to avoid interruptions of service to customers. WNG states that it does not own a compressor unit which can be used on an as-needed, temporary basis and that it will use rental units at a cost estimated to be no greater than $50,000 per month.

Comment date: April 16, 1996, in accordance with Standard Paragraph F at the end of this notice.

5. Tennessee Gas Pipeline Company

[Docket No. CP96–276–000]

Take notice that on March 22, 1996, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 1642, Houston, Texas 77252, filed in Docket No. CP96–276–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate facilities in Chester County, Tennessee to implement a new delivery point for deliveries to Lexington Natural Gas Company (Lexington), under the blanket certificate issued in Docket No. CP82–413–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee states that the proposed facilities consist of two four-inch hot taps, and Bristol 3300 electronic gas measurement communications, and that it would inspect Lexington's installation of four-inch interconnect piping and measurement facilities.

Tennessee indicates that the total quantities to be delivered to Lexington after the delivery point is installed would not exceed the total quantities authorized prior to the request. Tennessee also indicates that the installation of the proposed delivery point is not prohibited by its existing tariff, and that it has sufficient capacity to accomplish deliveries at the proposed delivery point without detriment or disadvantage to its other customers.

Comment date: May 10, 1996, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public

convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–7924 Filed 4–1–96; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5451–2]

Agency Information Collection Activities NSPS, Bulk Gasoline Terminals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) for NSPS Subpart XX, Bulk Gasoline Terminals described below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before May 1, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 0664.

SUPPLEMENTARY INFORMATION:

Title: NSPS subpart XX, Bulk Gasoline Terminals, OMB Control No. 2060–0006; EPA ICR No. 0664, expires March 31, 1996. This is a request for extension of a currently approved collection.

Abstract: Owners or operators of the affected facilities described must make the following one-time-only reports: notification of the date of construction or reconstruction; notification of the anticipated and actual dates of startup; notification of any physical or operational change to an existing facility which may increase the regulated pollutant emission rate; notification of the date of the initial performance test; and the results of the initial performance test. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility. These notifications, reports and records are required, in general, of all sources subject to NSPS.

Monitoring requirements specific to bulk gasoline terminals consist mainly of identifying and documenting vapor tightness for each gasoline tank truck that is loaded at the affected facility, and notifying the owner or operator of each tank truck that is not vapor tight. The owner or operator must also perform a monthly visual inspection for liquid or vapor leaks, and maintain records of these inspections at the facility for a period of two years.

The reporting requirements for this industry currently include not only the initial notifications and initial performance test report listed above. All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office. Notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to ensure that the pollution control devices are properly installed and operated. Performance test reports are needed as these are the Agency's record of a source's initial capability to comply with the emission standard, and note the operating conditions under which compliance was achieved.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 1/30/96 (61 FR 3029).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average .13 hours per response. For reporting requirements it is estimated that it will take one person-hour to read the instructions. The ICR uses 60 burden hours for the initial performance test this includes the burden to write the report of the performance test. It is assumed that 20% of all affected facilities will have to repeat performance tests.

The following is a breakdown used in the ICR. Burden is calculated as two hours each for respondents to gather existing information and write the reports for; notification of construction/modification, notification of anticipated start-up, and notification of initial performance test. The burden is calculated as one hour for respondents to gather existing information and write a report for notification of actual start-up. These are all one time only burdens. These notifications, reports and records are required in general, of all sources subject to NSPS. Approximately 40 sources are currently subject to this NSPS standard. Because no growth in the industry is expected, no additional sources are expected to become subject to this standard over the next three years. Therefore, the only expected burden comes from following recordkeeping requirements.

The recordkeeping burden—time to enter information—records of start-up, shutdown, malfunction, or any periods during which the monitoring system is inoperative is estimated to be one and one half hours 50 times per year or about one occurrence per week.

The burden to enter records of tank identification numbers is 0.1 of an hour with the assumption it takes six minutes to enter each tank truck identification number. It is estimated there will be approximately 2,100 truck loadings per year based on six tank trucks each day multiplied by 350 days per year. It is estimated that leak detection records from monthly inspection of control equipment is one person-hour every two years.

This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and

requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondent/Affected Entities: 40.

Estimated Number of Respondents: 40.

Frequency of Response: Variable.

Estimated Total Annual Hour Burden: 11,420 hours.

Estimated Total Annualized Cost Burden: $347.739.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods of minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 0664 and OMB Control No. 2060–0006 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 10503.

Dated: March 29, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–7874 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5452–2]

Integrated Risk Information System (IRIS); Announcement of Pilot Program; Request for Information

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice; Announcement of IRIS Pilot Program and request for technical information on Pilot chemical substances.

SUMMARY: The Integrated Risk Information System (IRIS) is a data base of the United States Environmental Protection Agency (EPA) that contains EPA scientific consensus positions on potential human health effects from environmental contaminants. On February 25, 1993 (58 FR 11490) EPA requested public comment to improve IRIS and make it more useful. In that notice, EPA also described efforts in the Agency to identify issues in the development and presentation of information in the data base. Many of the issues concern the way consensus health information is developed prior to entry into the data base. As a consequence of analyzing the IRIS program and considering suggestions received about IRIS over the past several years, EPA has initiated a Pilot Program to improve the consensus health information process and strengthen peer review. The Pilot will produce new or updated health assessments and IRIS entries for eleven priority environmental chemical substances utilizing this new process. The purpose of this Notice is to advise the public that the Pilot is underway, and to request technical information from the public on the eleven Pilot substances.

DATES: Please submit information in response to this Notice by May 2, 1996.

ADDRESSES: Please mail information (three copies, at least one of which should be unbound) to the IRIS Submission Desk, NCEA (MS–190), U.S. Environmental Protection Agency, 26 Martin Luther King Drive, Cincinnati, OH 45268. Information may instead be submitted electronically by sending electronic mail (e-mail) to: IRIS.comments@epamail.epa.gov. Electronic information must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Information will also be accepted on disks in WordPerfect 5.1 format or ASCII file format. All information in electronic form must be identified as IRIS Submission.

FOR FURTHER INFORMATION: For information on the Pilot, contact Amy Mills, National Center for Environmental Assessment (mail code 8623), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. The public information phone line for the Pilot is (202) 260–8930, or email inquiries may be addressed to mills.amy@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Background

The Integrated Risk Information System (IRIS) is an EPA data base containing Agency consensus scientific positions on potential adverse human health effects that may result from chronic (or lifetime) exposure to environmental contaminants. IRIS currently provides health effects information on over 500 specific chemical substances.

IRIS contains chemical-specific summaries of qualitative and quantitative health information in support of the first two steps of the risk assessment process, i.e., hazard identification and dose-response evaluation. IRIS information includes the reference dose for non-cancer health effects resulting from oral exposure, the reference concentration for non-cancer health effects resulting from inhalation exposure, and the carcinogen assessment for both oral and inhalation exposure. Combined with specific situational exposure assessment information, the summary health hazard information in IRIS may be used as a source in evaluating potential public health risks from environmental contaminants.

As the data base has expanded and its use has increased over the last decade, issues have surfaced with regard to entering new information in a timely manner, while soliciting information from a broad spectrum of outside scientists and the public. In 1993, an EPA team evaluated the status of IRIS and proposed options for improvement. This effort was announced in a Notice in the Federal Register of February 25, 1993 (58 FR 11490). The Notice addressed the use of IRIS, and avenues for public involvement and external scientific peer review of IRIS summaries and supporting documents. Public involvement means opportunities for affected or interested parties to have some level of input into IRIS health hazard information, such as providing relevant health data. Public involvement can involve a broader spectrum of participants than external peer review, which refers to a critical scientific appraisal by experts outside of EPA.

The Agency and the public have continued to express support for maintaining IRIS and strengthening the process for developing consensus health information, public involvement, and peer review. This support has given rise to the new Pilot Program.

The Pilot Program

As a consequence of analyzing the IRIS program and considering suggestions received about IRIS over the past several years, the Agency has decided to test some improvements through a Pilot Program. The Pilot will primarily address the scientific consensus and review process that precedes IRIS data base entries. EPA will develop (or update, for existing entries) all non-cancer and cancer information for the eleven Pilot substances. The Pilot process will consist of, (1) A call for technical information on the eleven substances from the public via this FR Notice, (2) a search of the current literature, (3) development of health assessments and draft IRIS summaries, (3) internal peer review (i.e., within EPA), (4) external peer review (outside EPA), (5) consensus review and management

approval within EPA, (6) preparation of final IRIS summaries and supporting documents, and (7) entry of summaries into the IRIS data base.

The appropriate level of external peer review will be determined for each chemical substance. Depending upon the complexity of the scientific information and other factors, the form of the peer review will either be via mail, forums of experts, or formal federal advisory committees.

The Pilot will also test some improvements in IRIS entries to more fully characterize health information associated with each chemical. For example, the IRIS summaries will provide greater elaboration of uncertainties in the data, and our confidence in the assessment.

Pilot Substances

The eleven Pilot chemical substances were chosen on the basis of the Agency's need for new or updated hazard or dose-response information, and in an effort to represent a range of technical complexity so the new process is realistically tested. Qualitative and quantitative information will be developed for non-cancer and cancer effects of all Pilot substances. In some cases, the assessment will be developed for the first time; in others, the assessment will be reviewed in light of new information and updated in IRIS if appropriate.

The following substances will be reviewed under the Pilot Program:

Name/CAS.No.

- Arsenic—7440–38–2
- Bentazon—25057–89–0
- Beryllium—7440–41–7
- Chlordane—57–74–9
- Chromium (III)—16065–83–1
  Chromium (VI)—18540–29–9
  Total chromium—7440–47–3
- Cumene—98–82–8
- Methyl methacrylate—80–62–6
- Methylene diphenyl isocyanate—101–68–8
- Naphthalene—91–20–3
- Tributyltin oxide—56–35–9
- Vinyl chloride—75–01–4

Note that EPA may initiate other chemical substance reviews during the Pilot period; the Pilot does not preclude additional work on IRIS.

Submittal of Information

The Pilot Program is designed to provide early opportunity for public involvement. While the Agency conducts a thorough literature search for each chemical substance, there may be other articles or unpublished studies we are not aware of. The Agency would greatly appreciate receiving scientific information from the public during the information gathering stage of the Pilot. Interested persons should provide scientific comments, analyses, studies, and other pertinent scientific information. The most useful documents for EPA are unpublished studies or other primary technical sources that we may not otherwise obtain through open literature searches. Also note that if you have submitted certain information previously, such as in response to the 1993 FR Notice, then there is no need to resubmit that information. Information from the public is being solicited for 30 days via this Notice.

As described in the 1993 FR Notice, submissions will be handled in a three-step process:

1. First, interested parties should simply provide a list (submission inventory), briefly identifying all the information they wish to submit to the IRIS Information Submission Desk. The list should specify by name and CAS (Chemical Abstract Registry) number the Pilot chemical substance(s) to which the information pertains, state the assessment that is being addressed (e.g., carcinogenicity), and describe briefly the information being submitted for consideration. Where possible, documents should be listed in scientific citation format, that is, author(s), title, journal, and date. A cover letter should state that the correspondence is an IRIS Submission, describe in general terms the purpose of the submission, and include names, addresses, and telephone numbers of persons to contact for additional information on the submission.

2. In the second step, EPA will compare the submission inventory to existing files and identify the information that should be submitted. This step will help prevent an influx of duplicative information. The submitter will receive notification requesting full submission of the selected material.

3. In the third step, the submitter should promptly send in the information requested by EPA. Submittals should include a cover letter addressing all of the points in item 1 above. In addition, persons submitting results of new health effects studies should include a specific explanation of how and why the study results could change the information in IRIS.

Submitters sending paper copies are requested to send three copies, at least one of which should be unbound. As mentioned previously (see **ADDRESSES**), the Agency also welcomes electronic submittal of information in response to this Notice. EPA will transfer all correspondence received electronically into printed, paper form as it is received and will place the paper copies along with all information submitted directly in writing to the IRIS Submission Desk. Receipt of information will be acknowledged in the manner in which it is received, that is, in writing or electronically.

Other aspects of the information submittal process are unchanged and are detailed in the 1993 FR Notice. Most importantly, Confidential Business Information (CBI) should not be submitted to the IRIS Submission Desk. CBI must be submitted to the appropriate office via approved Agency procedures for submission of CBI as codified in the Code of Federal Regulations (40 CFR, Part 2, Subpart B). If a submitter believes that a CBI submission contains information with implications for IRIS, it should be noted in the cover letter accompanying the submission to the appropriate office.

Dated: March 27, 1996.

Robert J. Huggett,

Assistant Administrator for Research and Development.

[FR Doc. 96–8007 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5451–5

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces the Office of Management and Budget's (OMB) responses to Agency PRA clearance requests. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer (202) 260–2740. Please refer to the EPA ICR No.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency PRA Clearance Requests

OMB Approvals

EPA ICR No. 1560.04; National Water Quality Inventory Reports—Clean Water Act Sections 305(b), 303(d), 314(a) and 106(e); was approved 02/21/96; OMB No. 2040–0071; expires 02/28/99.

EPA ICR No. 1698.02; Reporting and Recordkeeping Requirements Under

EPA's Wastewise; was approved 02/02/96; OMB No. 2050–0139; expires 05/31/97.

EPA ICR No. 0161.07; Purchaser Acknowledgement Statement for Unregistered Pesticides, Export Policy; was approved 03/18/96; OMB No. 2070–0027; expires 03/31/99.

Extensions of Expiration Dates

EPA ICR No. 0575.06; Health and Safety Data Reporting Submission of Lists and Copies of Health and Safety Studies; OMB No. 2070–0004; expiration date extended to 04/30/96.

EPA ICR No. 1031; Recordkeeping and Reporting Requirements for Allegations of Significant Adverse Reactions to Human Health or the Environment; OMB No. 2070–0017; expiration date extended to 04/30/96.

Dated: March 26, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96–8006 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5450–4]

Proposed Administrative Agreement on Consent; XXKEM Company

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed settlement.

SUMMARY: EPA is proposing to settle a claim under Section 107 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9607, for past response costs incurred during removal activities at the XXKEM Company site in Toledo, Lucas County, Ohio (XXKEM Site). EPA has incurred $1,361,840 in response costs at the XXKEM Site. Settling parties participating thus far have agreed to reimburse the EPA in the amount of $762,585. Additional settling parties may join the settlement under the same terms, in which case the amount reimbursed would be higher. EPA today is proposing to approve this settlement because it reimburses EPA, in part, for costs incurred during EPA's removal action at this site.

On February 6, 1996, EPA sent a settlement agreement to approximately 893 potentially responsible parties (PRPs), providing an opportunity to settle for past response costs incurred during removal activities at the XXKEM Site. Subsequently, EPA received comments regarding various provisions of the settlement agreement.

In response to those comments, EPA changed the settlement agreement in three limited respects. First, as originally drafted, the covenant not to sue by EPA did not become effective for any settlor until all settlors paid the amount due pursuant to the settlement agreement. In addition, if any settlor did not pay on time, all settlors faced the possibility of paying interest, stipulated penalties or attorney's fees for other settlors' failure to pay. These provisions have been changed so that the consequences of any settlor's failure to pay or make late payments are reserved only for that specific settlor.

Second, the group of settlors includes one federal agency, the United States Postal Service. For a variety of reasons, including the fact that the Anti-Deficiency Act, 31 U.S.C. 1341 *et seq.*, restricts a federal agency's ability to commit funds absent a Congressional appropriation, the settlement agreement addresses this federal agency separately. The payment provisions that apply to this settling federal agency have absolutely no effect on the terms of the settlement for any other party.

Third, EPA offered to consider ability to pay claims. EPA will be adding a certification to the signature page of parties for whom EPA agrees to reduce the amount of money owed. Such parties must certify that: (1) The financial information provided to EPA is complete and accurate, and that if this is not the case, the settlement as to that settlor is null and void; and (2) the settlor has not received insurance proceeds and if any insurance coverage becomes available, the settlor agrees to pay any proceeds recovered to the EPA.

EPA believes that the revised settlement is responsive to the comments received to date, and, from the standpoint of the prospective settlors, a more advantageous way to settle this matter.

DATES: Comments on this proposed settlement must be received on or before May 2, 1996.

ADDRESSES: Copies of the proposed settlement agreement are available at the following address for review (It is recommended that you telephone Ms. Gloria Kilgore at (312) 886–0813 before visiting the Region 5 Office): U.S. Environmental Protection Agency, Region 5, Office of Superfund, Removal and Enforcement Response Branch, 77 West Jackson Blvd., Chicago, Illinois 60604.

Comments should be sent to Ms. Gloria Kilgore at the Office of Regional Counsel (C–29A), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590.

Arlene R. Haas,

Assistant Regional Counsel, United States Environmental Protection Agency.

[FR Doc. 96–7873 Filed 4–1–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Submitted to OMB for Review and Approval

March 27, 1996.

SUMMARY: The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commissions burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before May 2, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESS: Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, NW., Washington, DC 20503 or fain_t@a1.eop.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the

information collections contact Dorothy Conway at 202–418–0217 or via internet at dconway@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: N/A.

Title: Part 101 governing the Terrestrial Microwave Fixed Radio Services.

Form No: Not applicable.

Type of Review: New collection consolidating existing collections.

Respondents: Businesses; not-for-profit institutions; state, local or tribal government.

Number of Respondents: 1,025 respondents and 19,000 recordkeepers.

Estimated Time Per Response: 1.77 hours per response and 120 hours per recordkeepers. This reflects an annual estimate of 1,025 respondents making various filings and an estimated 19,000 licensees maintaining records.

Total Annual Burden: 1609.

Total estimated cost: $90,624.

Needs and Uses: The information requirements are used to determine technical, legal, and other qualifications of applicants to operate a station in the public and private operational fixed services. The information is also used to ensure the applicants and licensees comply with the ownership and transfer restrictions imposed by Section 310 of the Act, 47 U.S.C. Section 310. Without this information, the Commission would not be able to carry out its statutory responsibilities.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–7964 Filed 4–1–96; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1105–DR]

Montana; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Montana, (FEMA–1105–DR), dated February 23, 1996, and related determinations.

EFFECTIVE DATE: March 22, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Montana, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 23, 1996:

Jefferson, Mineral, Park, and Powell counties for Public Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–7999 Filed 4–1–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–1093–DR]

Pennsylvania; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA–1093–DR), dated January 21, 1996, and related determinations.

EFFECTIVE DATE: March 22, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

York County for Public Assistance (already designated for Individual Assistance and Hazard Mitigation).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–8000 Filed 4–1–96; 8:45 am]

BILLING CODE 6718–02–P

[FEMA–3117–EM]

Texas; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas (FEMA–3117–EM), dated February 23, 1996, and related determinations.

EFFECTIVE DATE: March 22, 1996.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Texas is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of February 23, 1996:

Jasper County for emergency assistance as defined in this declaration.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

William C. Tidball,

Associate Director, Response and Recovery Directorate.

[FR Doc. 96–8001 Filed 4–1–96; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 22, 1996.

A. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Kyle Nelson Deaver, together with John Lee Deaver, both of Waco, Texas; each to acquire an additional .13 percent, for a total of 28.77 percent each, of the voting shares of American National Bancshares, Inc., Waco, Texas, and thereby indirectly acquire American Bank NA, Waco, Texas.

Board of Governors of the Federal Reserve System, March 27, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–7971 Filed 4–1–96; 8:45 am]

BILLING CODE 6210–01–F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 26, 1996.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. FCFT, Inc., Princeton, West Virginia; to acquire 100 percent of the voting shares of Citizens Bank of Tazewell, Tazewell, Virginia.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. The Colonial BancGroup, Inc., Montgomery, Alabama; to merge with Southern Banking Corporation, Orlando, Florida, and thereby indirectly acquire Southern Bank of Central Florida, Orlando, Florida.

2. P.C.B. Bancorp, Inc., Largo, Florida; to acquire 100 percent of the voting shares of Premier Community Bank, Venice, Florida, a *de novo* bank.

C. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Delavan Bancshares, Inc., Delavan, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank Delavan, Delavan, Wisconsin.

2. Independent Bank Corporation, Ionia, Michigan; to acquire 100 percent of the voting shares of North Bank Corporation, Hale, Michigan, and thereby indirectly acquire North Bank, Hale, Michigan.

Board of Governors of the Federal Reserve System, March 27, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–7972 Filed 4–1–96; 8:45 am]

BILLING CODE 6210–01–F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies That are Engaged in Permissible Nonbanking Activities

The company listed in this notice has given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

The notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices'' (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 16, 1996.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Norwest Corporation, Minneapolis, Minnesota; to either acquire 100 percent of the common stock, or purchase certain assets and assume certain liabilities of PriMerit Bank, Federal Savings Bank, Las Vegas, Nevada, and thereby engage in the operation of a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y; mortgage origination and servicing activities pursuant to § 225.25(b)(1) of the Board's Regulation Y; trust company functions pursuant to § 225.25(b)(3) of the Board's Regulation Y; and securities brokerage services pursuant to § 225.25(b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, March 27, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96–7973 Filed 4–1–96; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit public comments in compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports clearance Officer on (202) 690–6207.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information: (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

1. Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (45 CFR Part 92)—0990–0169—Extension No Change—Preaward, post-award, and subsequent reporting and recordkeeping requirements are necessary to award, monitor, close out and manage grant programs, ensure minimum fiscal control and accountability for Federal funds and deter fraud, waste and abuse. Respondents: State and Local Governments; Number of Respondents: 4000; Average Burden per Respondent: 70 hours; Total Burden: 280,000 hours.

Send comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW., Washington DC 20201. Written comments should be received within 60 days of this notice.

Dated: March 26, 1996.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 96–7981 Filed 4–1–96; 8:45am]

BILLING CODE 4150–04–M

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Family Preservation and Support Program Instruction.

OMB No.: New Request.

Description: The 1996 Family Preservation and Support Program Instruction is being published to inform the State and eligible Indian Tribes of the requirement that they submit for approval an Annual Progress and Services Report (APSR), a budget request form (CFS–101), and certain information solicited to evaluate the implementation of the program at the program at the State and Tribal level. This information is required by statute, sections 430–435 of the Social Security Act and to meet the evaluation information requirements of the Law. This information will be used to monitor the progress of States and eligible Indian Tribes under this program and to provide information for evaluations currently underway.

Respondents: State governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
APSR	104	1	120	12,480
CFR–101	104	1	5	570
Estimated Total Annual Burden Hours: 13,050.				

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, N.W., Washington, D.C. 20503, Attn: Ms. Wendy Taylor.

Dated: March 27, 1996.

Roberta Katson,

Director, Office of Information Resource Management Services.

[FR Doc. 96–7980 Filed 4–1–96; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–330–1020–00–24 1A]

Extension of Currently Approved Information Collection, OMB Approval Number 1004–0020

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request extension of approval to collect information from individuals who seek to graze livestock on unfenced, intermingled public and private land. BLM uses the information to issue exchange-of-use grazing agreements to ensure orderly administration of the range, including fair and equitable sharing of the operation and maintenance of range improvements.

DATES: Comments on the proposed information collection must be received by June 3, 1996, to be considered.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW., Room 401 LS, Washington, DC 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include ''Attn: 1004–0020'' and your name and return address in your Internet message.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW., Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (8:45 a.m. to 5:15 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: George Ramey, Jr., (202) 452–7747.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM is required to provide 60-day notice in the Federal Register concerning a collection of information contained in published current rules to solicit comments on (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Taylor Grazing Act (TGA) of 1934 (43 U.S.C. 315 a–r), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739, 1740) and the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901) provide the authority for BLM to administer the livestock grazing program consistent with land-use plans, multiple-use objectives, sustained yield, environmental values, economic considerations, and other factors. Authorizing livestock use on the public lands is an important and integral part of program administration. Intermingled land patterns sometimes complicate this administration.

BLM's regulations at 43 CFR 4130.6–1 provide for an exchange-of-use grazing agreement to be issued to an applicant (an individual or farm owner) who owns or controls lands that are unfenced and intermingled with public lands in the same allotment. Use under such an agreement must be in harmony with the management objectives for the allotment and must be compatible with existing livestock operations. Initiation of an exchange-of-use agreement is voluntary on the part of the applicant. The implementing regulations were adopted in 1980 (45 FR 47105) and last amended in 1995 (60 FR 9894, February 22, 1995).

BLM uses the Exchange-of-Use Grazing Agreement (Form 4130–4) to enable individuals to apply for exchange-of-use agreements. BLM considers the information provided on Form 4130–4 before issuing an exchange-of-use grazing permit or lease to graze livestock on the public lands, including other private or leased lands and the additional grazing capabilities. The information provided by the applicant includes identification of the intermingled private lands and estimated grazing capacity of the lands, the name of the BLM allotment and administrating District, the period of time the agreement is to be in effect, and the total number of livestock and animal unit months to be recognized on the allotment.

The information requested on Form 4130–4 is only available from the individual or farm owner. The applicant's ownership papers, which are readily available to the applicant, but not to BLM, provide the specific information necessary to approve the agreement. This information ensures the orderly administration of the range, including fair and equitable sharing of the operation and maintenance of range improvements. Without exchange-of-use agreements, permittees would be required to fence their private lands or limit grazing to the number of livestock allowed only on public land in order to avoid unauthorized use violations. BLM would have to spend additional time supervising use of the range at an increased cost to taxpayers.

The information collection is strictly voluntary to receive a benefit. The application is completed once during a permittee's period of ownership. Based on its experience managing the activities described above, BLM estimates that the public reporting burden for the information collection is 20 minutes per response. The number of responses is estimated to be 600 per year. The estimated total annual burden on new respondents is 200 hours.

Any interested member of the public may request and obtain, without charge, a copy of Form 4130–4 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: March 27, 1996.

Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–7931 Filed 4–1–96; 8:45 am]

BILLING CODE 4310–84–P

[WO–340–1220–02–24 1A]

Extension of Currently Approved Information Collection, OMB Approval Numbers 1004–0165 and 1004–0166

AGENCY: Bureau of Land Management for the Department of Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM), acting for the Department of the Interior, is announcing its intention to request approval to collect certain information from those persons submitting nominations for significant caves under the Federal Cave Resources Protection Act of 1988 and those persons requesting confidential cave information on Federal lands administered by the Secretary of the Interior. This information is needed for the Interior agencies to: (1) determine which caves will be listed as significant and (2) decide whether to grant access to confidential cave information. This information collection is currently authorized under clearance numbers 1004–0165 (cave nominations) and 1004–0166 (confidential information).

DATES: Comments on the proposed information collection must be received by June 3, 1996 to be assured of consideration.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW, Room 401LS, Washington, D.C. 20240.

Comments may be sent via Internet to: !WO140@attmail.com. Please include ''ATTN: 1004–0165'' and your name and return address in your Internet message.

Comments may be hand-delivered to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street, NW, Washington, DC.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m.), Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jinx Fox, BLM, (202) 452–0354.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.12(a), BLM, on behalf of the Department, is required to provide 60-day notice in the Federal Register concerning a collection of information contained in published current rules to solicit comments on (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's

estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. BLM will receive and analyze any comments sent in response to this notice and include them with its request for approval from the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Nominations of significant caves. The Federal Cave Resources Protection Act of 1988 (102 Stat. 4546, 16 U.S.C. 4301) requires identification, protection and maintenance, to the extent practical, of significant caves on lands managed by the Department of the Interior. The implementing regulations are found at 43 CFR 37—Cave Management. The regulations were issued on October 1, 1993 (58 FR 51554). Federal agencies must consult with ''cavers'' and other interested parties to develop a listing of significant caves. The regulations establish criteria for the identification of significant caves. The regulations also integrate cave management into existing planning and management processes and protect cave resource information to prevent vandalism and disturbance of significant caves.

The public and other government agencies provide (a) name and address, (b) name and phone number of a key contact, (c) cave name, (d) cave location, (e) topographic and/or cave map(s), (f) name of the administering Federal agency and agency field office name and address where the cave is located, (g) description of the cave, and (h) description of the applicable criteria for significant caves (biota, cultural, geologic/mineralogic/paleontologic, hydrologic, recreational, and/or educational or scientific). The Department uses the information provided to determine which caves will be listed as significant. If the Department did not collect the information, it could not identify, manage, and protect significant caves in accordance with the law.

This collection of information is short, simple, and limited to the information necessary for efficient operation of the program. The information collected is a voluntary, non-recurring submission necessary to receive a benefit. There is no other source for the information, and failure by the respondent to furnish the required information will result in a ''significant'' cave not receiving appropriate protection. The respondents already maintain this information for their own record-keeping purposes and need only compile it.

Based on the Department's experience administering cave resources as described above, the public reporting burden for the information collected for significant cave nominations is estimated to average three hours per response. The estimate includes time for research, time to transcribe and audit the data, and time to prepare the nomination. The number of responses per year is estimated to be about 200. The frequency of response is once per nomination. The estimated total annual burden on new respondents is 600 hours.

Access to confidential cave information. Other Federal or State governmental agencies, bona fide educational or research institutes, or individuals or organizations assisting the land management agency with cave management activities may request access to confidential cave information. The written request includes (a) name, address and telephone number of the person responsible for the security of the information, (b) a legal description of the cave location, (c) a statement of the purpose of the request, and (d) written assurance that the requesting party will maintain the confidentiality of the information and protect the cave and its resources. The Department uses the information provided to determine whether disclosure will create a substantial risk to cave resources. If the Department did not collect the information, it could not identify, manage, and protect significant caves in accordance with the law.

The collection of information is short, simple and convenient to the applicant. The information collected is a voluntary, non-recurring submission necessary to receive a benefit. The respondents already maintain this information for their own record-keeping purposes and need only compile it.

Based on the Department's experience administering cave resources as described above, the information collection burden for confidential cave information requests is about one hour per request. The number of requests per year is about ten. The frequency of response is once per request. The estimated total annual burden on new respondents is ten hours.

Previously, OMB approved the nominations of significant caves and the access to confidential cave information as separate information collections, OMB approval numbers 1004–0165 and 1004–0166, respectively. For the convenience of the public, BLM plans to request that these two information collections be consolidated under one approval number.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Dated: March 27, 1996.

Annetta L. Cheek,

Chief, Regulatory Management Team.

[FR Doc. 96–7933 Filed 4–1–96; 8:45 am]

BILLING CODE 4310–84–P

[WY–923–1430–01; WYW 125723]

Public Land Order 7191; Withdrawal of National Forest System Land for Burgess Junction Visitor Information Center Site; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws approximately 77 acres of National Forest System land from location and entry under the United States mining laws for a period of 20 years to protect significant capital improvements associated with the Burgess Junction Visitor Information Center Site. The land has been and remains open to surface uses authorized by the Forest Service and open to mineral leasing.

EFFECTIVE DATE: April 2, 1996.

FOR FURTHER INFORMATION CONTACT: Janet Booth, BLM Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, 307–775–6124.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to all valid existing rights, the following described National Forest System land is hereby withdrawn from location or entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the Forest Service's capital investments at the Burgess Junction Visitor Information Center Site:

Sixth Principal Meridian

Bighorn National Forest

T. 56 N., R. 88 W.,
Sec. 32, S½NE¼NW¼, E½SE¼NW¼ NW¼, E½SW¼NW¼, and all those portions of the SE¼NW¼ lying North of State Highway 14.

The area described contains approximately 77 acres in Sheridan County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of National Forest System lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: March 13, 1996.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 96–7899 Filed 4–1–96; 8:45 am]

BILLING CODE 4310–22–P

National Park Service

Information Collections Submitted for Review Under the Paperwork Reduction Act

The proposal for the collections of information listed below have been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 5). Copies of the proposed information collection requirements and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the Bureau Clearance Officer and the Office of Management and Budget, Paperwork Reduction Project, Washington, D.C. 20530, telephone 202–395–7340.

Title: Visitor Surveys—Chiricahua/Fort Bowie; Everglades; and Great Falls Park.

Abstract: The goal is to learn visitor demographics and opinions about services and facilities in these parks. Managers will use results to improve services, protect resources and better serve visitors.

Bureau Form Number: None.

Description of Respondents: Individuals and households.

Estimated Annual Reporting Burden: 280 hours.

Estimated average burden hours per response: 12 minutes.

Estimated average number of respondents: 1400.

Estimated frequency of response: On occasion.

Bureau Clearance Officer: Terry N. Tesar—(202) 523–5092.

Dated: March 27, 1996.

Terry N. Tesar,

Information Collection Clearance Officer, Audits and Accountability Team, National Park Service.

[FR Doc. 96–7954 Filed 4–1–96; 8:45 am]

BILLING CODE 4310–7–M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 23, 1996. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by April 17, 1996.

Beth Boland,

Acting Keeper of the National Register.

CALIFORNIA

Los Angeles County

City Hall—City of Burbank, 275 E. Olive Ave., Burbank, 96000426

Foothill Boulevard Milestone (Mile 11) (Early Automobile-Related Properties in Pasadena MPS), S side of E. Colorado Blvd., W of jct. with Holliston Ave., Pasadena, 96000421

Howard Motor Company Building (Early Automobile-Related Properties in Pasadena), 1285 E. Colorado Blvd., Pasadena, 96000422

Kindel Building (Early Automobile-Related Properties of Pasadena MPS), 1095 E. Colorado Blvd., Pasadena, 96000423

San Diego County

Station and General Office, California Southern Railroad, 900 W. 23rd St., National City, 96000424

Santa Clara County

Palo Alto Southern Pacific Railroad Depot, 95 University Ave., Palo Alto, 96000425

CONNECTICUT

Hartford County

Main Street Historic District, Roughly, Main St. from Center St. to Florida St., Manchester, 96000428

Litchfield County

Martin, Caleb, House, 30 Mill Rd., Bethlehem, 96000427

KENTUCKY

Fayette County

Middle Reaches of Boone Creek Rural Historic District, Roughly bounded by US 421, Jones Nursery, Coombs Ferry, Sulpher Well Rds., and US 25, Lexington vicinity, 96000429

Jefferson County

Audubon Park Historic District (Louisville and Jefferson County MPS), Roughly bounded by Hess Ln. and Cardinal Dr. between Eagle Pass and Preston St., Audubon Park, 96000430

LOUISIANA

Ouachita Parish

McClendon House, 309 McClendon, West Monroe, 96000432

Webster Parish

Fuller House, 220 W. Union, Minden, 96000433

Miller House, 416 Broadway, Minden, 96000431

MARYLAND

Anne Arundel County

Portland Manor, 5951 Little Rd., Lothian, 96000434

NEW YORK

Monroe County

Saint Bernard's Seminary, 2260 Lake Ave., Rochester, 96000435

UTAH

Summit County

Glenwood Cemetery, Silver King Dr., approximately .5 mi. N of Park City Ski Resort, Park City, 96000436

WEST VIRGINIA

Cabell County

Simms School Building, 1680 11th St., Huntington, 96000438

Kanawha County

Clendenin Historic District, Roughly bounded by First Ave. and Kanawha Ave. between 5th St. and French St., Clendenin, 96000442

Woodrums' Building, 602 E. Virginia St., Charleston, 96000439

Monongalia County

Downtown Morgantown Historic District, Roughly bounded by Chestnut and Spruce Sts. between Foundry and Willey Sts., Morgantown, 96000441

Ohio County

Shaw Hall and Shotwell Hall, Bethany Pike, West Liberty State College Campus, West Liberty, 96000443

Warwood Fire Station, 1609 Warwood Ave., Wheeling, 96000440

Woodsdale—Edgewood Neighborhood Historic District, Roughly bounded by Orchard Rd., Edgwood St., Carmel Rd., Bae—Mar and Lenox to Wheeling Cr., and Pine St. to Park St., Wheeling, 96000445

Preston County

Tunnelton Railroad Depot, Boswell St., N of the jct. of Boswell and South Sts., Tunnelton, 96000437

Tucker County

Western Maryland Railroad Depot, 166 1/2 Main St., Parsons, 96000444

[FR Doc. 96–7955 Filed 4–1–96; 8:45 am]

BILLING CODE 4310–70–P

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collection of information for part 780, Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plans.

DATES: Comments on the proposed information collection must be received by June 3, 1996 to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 120—SIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact the Bureau's clearance officer, John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)). This notice identifies information collections that OSM will be submitting to OMB for extension. These collections are contained in 30 CFR 780, Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plans.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSM will request a 3-year term of approval for each information collection agency.

Comments are invited on: (1) the need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarify of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

The following information is provided for each information collection: (1) Title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and (4) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan—30 CFR 780.

OMB Control Number: 1029–0036.

Summary: Permit application requirements in sections 507(b), 508(a), 510(b), 515(b) and (d), and 522 of Public Law 95–87 require the applicant to submit the operations and reclamation plan for coal mining activities. Information collection is needed to determine whether the mining and reclamation plan will achieve the reclamation and environmental protections pursuant to the Surface Mining Control and Reclamation Act. Without this information, Federal and State regulatory authorities cannot review and approve permit application requests.

Bureau Form Number: None.

Frequency of Collection: On occasion.

Description of Respondents: Applicants for surface coal mine permits.

Total Annual Responses: 610.

Total Annual Burden Hours: 235,261.

Dated: March 21, 1996.

Gene E. Krueger,

Acting Chief, Office of Technology Development and Transfer.

[FR Doc. 96–7951 Filed 4–01–96; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Partial Consent Decree in United States v. Nalco Chemical Company, et al., Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a Seventh Partial Consent Decree in *United States* v. *Nalco Chemical Company, et al.,* Case No. 91–C–4482 (N.D. Ill.), entered into by the United States on behalf of U.S. EPA and Quality Metal Finishing Co. was lodged on March 18, 1996 with the United States District Court for the Northern District of Illinois. The proposed Partial Consent Decree resolves certain claims of the United States against the settling party under the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. §§ 9601 *et seq.* relating to the Byron Salvage Superfund Site in Ogle County, Illinois. The Seventh Partial Consent Decree is a past costs only settlement and provides for a payment of $500,000 to the Hazardous Substances Superfund.

The Department of Justice will receive comments relating to the proposed Partial Consent decree for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Nalco Chemical Company, et al.,* D.J. Ref. No. 90–11–3–687. The proposed Partial Consent Decree may be examined at the Office of the United States Attorney for the Northern District of Illinois, 219 S. Dearborn St., Chicago, Illinois 60604; the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Street, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (202–624–0892). A copy of the proposed Partial Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy of the Seventh Partial Consent Decrees, please enclose a check in the amount of $5.50 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–7897 Filed 4–1–96; 8:45 am]

BILLING CODE 4410–01–M

Notice of Lodging of Consent Decree Pursuant to CERCLA

In accordance with Departmental policy, 28 CFR 50.7, and 42 U.S.C. § 9622(d), notice is hereby given that a proposed Consent Decree in *United States of America* v. *Waste Disposal Inc. et al.*, Civil Action No. 96–2124JWL was lodged on March 12, 1996 with the United States District Court for the District of Kansas.

In its Complaint, filed concurrently with the United States District Court for the District of Kansas, the United States alleges under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), 42 U.S.C. §§ 9606 and 9607(a), that the defendants are liable for implementation of the remedial action and reimbursement of response costs incurred and to be incurred by the United States at the Doepke Holliday Superfund Site (''Site'') located in Johnson County, Kansas.

Under the proposed Consent Decree, 70 Settling Defendants (including 33 *de minimis* parties) and two Settling Federal Agencies (the United States Air Force and the United States Army Reserve) have agreed to finance and implement the final remedial action for the Site which EPA estimates will cost approximately $11,000,000. The Settling Defendants will also pay 100% of EPA's future response costs, including EPA's oversight costs for remedial implementation. Finally, the Settling Defendants have agreed to pay all of the United States' outstanding past response costs in the amount of $1,341,520.89.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Acting Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *Waste Disposal Inc. et al.*, DOJ Ref. No. 90–11–3–600.

The proposed Consent decree may be examined at the Office of the United States Attorney, 500 State Avenue, Suite 360, Kansas City, Kansas 66101; the Region VII Office of the Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $29.50 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 96–7898 Filed 4–1–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Changes in Status of Extended Benefit (EB) Periods for the State of Alaska and Puerto Rico

This notice announces changes in benefit period eligibility under the EB Program for the State of Alaska and Puerto Rico.

Summary

The following changes have occurred since the publication of the last notice regarding States' EB status:

- February 4, 1996—Alaska's 13-week insured unemployment rate for the week ending January 20, 1996 rose above 6.0 percent, causing the State to trigger ''on'' EM effective February 4, 1996.
- February 3, 1996—The 13-week insured unemployment rate for the week ending January 13, 1996 fell below 6.0 percent and was less than 120 percent of the average for the corresponding period for the prior two years, causing Puerto Rico to trigger ''off'' EB effective February 3, 1996.

Information for Claimants

The duration of benefits payable in the EB Program, and the terms and conditions on which they are payable, are governed by the Federal-State Extended Unemployment Compensation Act of 1970, as amended, and the operating instructions issued to the States by the U.S. Department of Labor. In the case of a State beginning an EB period, the State employment security agency will furnish a written notice of potential entitlement to each individual who has exhausted all rights to regular benefits and is potentially eligible for extended benefits (20 CFR 615.13(c)(1)). In the case of a State ending an EB period, the State employment security agency will furnish a written notice to each individual who is filing claims for Extended Benefits informing them of the EB period and its effect on the individual's right to Extended Benefits (20 CFR 615.13(c)(4)).

Persons who believe they may be entitled to EB benefits, or who wish to inquire about their rights under the programs, should contact the nearest State employment service office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on March 21, 1996.

Timothy M. Barnicle,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 96–7946 Filed 4–1–96; 8:45 am]

BILLING CODE 4510–30–M

Mine Safety and Health Administration

[MSHS Form 7000–2]

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Quarterly Mine Employment and Coal Production Report

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the ''Quarterly Mine Employment and Coal Production Report'' (MSHA Form 7000–2). MSHA is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

* Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the person listed in the contact section of this notice.

DATES: Submit comments on or before June 3, 1996.

ADDRESSES: Written comments shall be mailed to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, U.S. Department of Labor, Mine Safety and Health Administration, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: George M. Fesak, Director, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mr. Fesak can be reached at gfesak@msha.gov (Internet E-mail), (703) 235–8378 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Sections 103(d), (h), and (j) of the Federal Mine Safety and Health Act of 1977 authorize the recordkeeping and reporting requirements implemented in 30 CFR 50—Notification, Investigation, Reports and Records of Accidents, Injuries, Illnesses, Employment, and Coal Production in Mines. Part 50 consolidated the separate reporting systems under 30 CFR 80 which implemented sections 103(e), 111, and 508 of the Federal Coal Mine Health and Safety Act of 1969 and 30 CFR 58 which implemented sections 4 and 13 of the Federal Metal and Nonmetallic Mine Safety Act of 1966. In so doing, part 50 provided for uniform, industry-wide, mandatory reporting and recordkeeping requirements.

Each operator of a mine in which an individual worked during any day of a calendar quarter is required to submit to MSHA a Quarterly Mine Employment and Coal Production Report (MSHA Form 7000–2) within 15 days after the end of each calendar quarter. The MSHA Form 7000–2 is one of the two collection instruments (the other being the MSHA Form 7000–1) by which MSHA monitors its statutory mandate to reduce accidents, occupational injuries, and occupational illnesses among the nation's miners.

Data obtained from this form and MSHA Form 7000–1 provide MSHA with timely information for making decisions on improving its safety and health enforcement programs, redirecting its education and training efforts, and establishing priorities for technical assistance activities in mine safety and health. Maintaining a current data base allows MSHA to effectively direct resources to improve safety and health in the mining industry. This data base provides a means for directing efforts to areas or mines where hazardous trends are developing. This cannot be done using historical data exclusively. Information collected using this form and the MSHA Form 7000–1 is the most comprehensive and reliable occupational data available concerning the mining industry.

Data collected through these two forms enable MSHA to publish timely quarterly and annual statistics, reflecting current safety and health conditions in the mining industry. These data are used not only by MSHA, but also by other Federal and State agencies, health and safety researchers, and the mining community to assist in measuring and comparing the results of health and safety efforts both in the United States and internationally.

II. Current Actions

MSHA is seeking to continue collection of employment, hours worked, and coal production data through the use of this form. Data are needed from this form to correlate the exposure hours or hours worked, with reported injuries, in order to calculate incidence rates (the number of injuries occurring per 200,000 hours worked). Although there has been a significant decline in the number of occupational fatalities in the mining industry over the last decade, accidents, injuries, and illnesses continue to result in serious personal suffering as well as significant costs to the mining industry. Valid comparisons and analyses of the health and safety performance of the mining industry would not be possible without the employment and production data obtained from mine operators.

MSHA seeks to continue the frequency of collection in order for the Agency to properly assess the nature and extent of the safety and health conditions in today's mining environment, and to respond quickly to developing trends. By requiring submission of the MSHA Form 7000–2 within 15 days after the close of each calendar quarter, MSHA is able to assess quickly whether there are changes occurring which would warrant special attention, as well as to fulfill its congressional requirement for publishing timely and comprehensive statistics on the safety and health of the mining workforce.

MSHA plans to provide the Energy Information Agency (EIA) of the U.S. Department of Energy with mine-specific coal production data as well as other related coal data files containing mine identification and associated information. This consolidation of certain EIA and MSHA data collection activities will reduce the overall reporting burden on coal mine operators and coal-producing contractors. The EIA estimates a reduction of 8,500 burden hours annually on this population.

In order to better serve the mining community, and to reduce the paperwork burden, MSHA provides for and encourages mine operators and mining contractors to submit Form 7000–2 electronically. MSHA is developing the methodology to allow electronic submission of the Form 7000–1 as well. MSHA is establishing the capability to allow mine operators and mining contractors to fax the completed Form 7000–2 in lieu of sending the form by mail. MSHA also is developing procedures for transmitting the required data via the Internet. Statistical compilations based on submitted information are already available on the Internet. For more information on this capability, refer to the person listed in the contact section of this notice.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Quarterly Mine Employment and Coal Production Report.

OMB Number: 1219–0006.

Recordkeeping: 30 CFR 50.30(a) requires respondents to maintain a copy of the Form 7000–2 at the office closest to the mine for 5 years after submission.

Affected Public: Businesses or other for-profit.

Form: MSHA Form 7000–2.

Total Respondents: 19,935 mine operators and mining contractors.

Frequency: Quarterly.

Total Responses: 83,594 responses.

Average Time per Response: 37 minutes.

Estimated Total Burden Hours: 51,562 hours.

Estimated Total Burden Cost: $26,750.

Comments submitted in response to this notice will be summarized and

included in the request for Office of Management and Budget approval of the information collection request. They will also become a matter of public record.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 96–7945 Filed 4–1–96; 8:45 am]

BILLING CODE 4510–43–M

[MSHA Form 7000–1]

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Mine Accident, Injury, and Illness Report

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the ''Mine Accident, Injury, and Illness Report'' (MSHA Form 7000–1). MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;
- Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

A copy of the proposed information collection request can be obtained by contacting the person listed below in the contact section of this notice.

DATES: Submit written comments to the office listed in the **ADDRESSES** section below on or before June 3, 1996.

ADDRESSES: Written comments shall be mailed to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, U.S. Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: George M. Fesak, Director, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mr. Fesak can be reached at gfesak@msha.gov (Internet E–mail), (703) 235–8378 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Sections 103(d), (h), and (j) of the Federal Mine Safety and Health Act of 1977 authorize the recordkeeping and reporting requirements implemented in 30 CFR 50—Notification, Investigation, Reports and Records of Accidents, Injuries, Illnesses, Employment, and Coal Production in Mines. Part 50 consolidated the separate reporting systems under 30 CFR 80, which implemented sections 103(e), 111, and 508 of the Federal Coal Mine Health and Safety Act of 1969 and 30 CFR 58, which implemented sections 4 and 13 of the Federal Metal and Nonmetallic Mine Safety Act of 1966. In so doing, part 50 provided for uniform, industry-wide, mandatory reporting and recordkeeping requirements.

Each mine operator is required to submit to MSHA a Mine Accident, Injury, and Illness Report (MSHA Form 7000–1) for each reportable accident, occupational injury, or illness within 10 working days after an accident or occupational injury occurs or an occupational illness is diagnosed. The MSHA form 7000–1 is one of two collection instruments (the other being the MSHA Form 7000–2(by which the Agency monitors its statutory mandate to reduce accidents, occupational injuries, and occupational illnesses among the nation's miners.

Data obtained from this form and MSHA Form 7000–2 provide MSHA with timely information for making decisions on improving its safety and health enforcement programs, redirecting its education and training efforts, and establishing priorities for technical assistance activities in mine safety and health. Maintaining a current data base allows MSHA to effectively direct resources to improve safety and health in the mining industry. This data base provides a means for directing efforts to areas or mines where hazardous trends are developing. This cannot be done using historical data exclusively. Information collected using this form and the MSHA Form 7000–2 is the most comprehensive and reliable occupational data available concerning the mining industry.

Data collected through these two forms enable MSHA to publish timely quarterly and annual statistics, reflecting current safety and health conditions in the mining industry. These data are used not only by MSHA, but also by other Federal and State agencies, health and safety researchers, and the mining community to assist in measuring and comparing the results of health and safety efforts both in the United States and internationally.

II. Current Actions

MSHA is seeking to continue collection of mine accident, injury, and illness data through the use of this form. Although there has been a significant decline in the number of mining fatalities over the last decade, accidents, injuries, and illnesses continue to result in serious personal suffering as well as significant costs to the mining industry.

MSHA seeks to continue the frequency of collection to enable the Agency to accurately assess the nature and extent of the safety and health conditions in today's mining environment, and to quickly identify and respond to developing trends. By requiring submission of the MSHA Form 7000–1 within 10 working days after an accident or occupational injury occurs or an occupational illness is diagnosed, MSHA is afforded the opportunity to promptly investigate the cause of the occurrence and to identify possible preventive measures.

In order to better serve the mining community, and to reduce the paperwork burden, MSHA is currently developing methodology to enable submission of the Form 7000–1 electronically. MSHA is establishing the capability to allow mine operators and mining contractors to fax the completed

Form 7000–1 in lieu of sending the form by mail. MSHA also is developing procedures for transmitting the required data via the Internet. Statistical compilations based on submitted information are already available for the Internet. For more information on this capability, please refer to the person listed in the contact section of this notice.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Mine Accident, Injury, and Illness Report.

OMB Number: 1219–0007.

Recordkeeping: 30 CFR 50.40(b) requires respondents to maintain a copy of the Form 7000–1 at the office closest to the mine for 5 years after submission.

Affected Public: Business or other for-profit.

Form: MSHA Form 7000–1.

Total Respondents: 19,935 mine operators and mining contractors.

Frequency: On occasion.

Total Responses: 44,444.

Average Time per Response: 1.91 hours.

Estimated Total Burden Hours: 84,946 hours.

Estimated Total Burden Cost: $23,160.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request. They will also become a matter of public record.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 96–7947 Filed 4–1–96; 8:45 am]

BILLING CODE 4510–43–M

NATIONAL BANKRUPTCY REVIEW COMMISSION

Meeting

AGENCY: National Bankruptcy Review Commission.

ACTION: Notice of public meeting.

TIME AND DATE: Friday, April 19, 1996; 8:30 A.M. to 5:00 P.M.

PLACE: Thurgood Marshall Federal Judiciary Building, Federal Judicial Center/Education Center, One Columbus Circle, N.E., Washington, D.C. 20002. The public should enter through the South Lobby entrance of the Thurgood Marshall Federal Judiciary Building.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED: General administrative matters relating to the organization of the Commission as well as future meetings and hearings.

CONTACT PERSONS FOR FURTHER INFORMATION: Contact Susan Jensen-Conklin or Carmelita Pratt at the National Bankruptcy Review Commission, Thurgood Marshall Federal Judiciary Building, One Columbus Circle, N.E., Suite G–350, Washington, D.C. (202) 273–1813.

Susan Jensen-Conklin,

Deputy Counsel.

[FR Doc. 96–7902 Filed 4–1–96; 8:45 am]

BILLING CODE 6820–36–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 150–00032 License No. (General License) EA 95–101]

TESTCO, Inc. Greensboro, North Carolina; Order Imposing Civil Monetary Penalty

I

TESTCO, Inc. (TESTCO or Licensee), located in Greensboro, North Carolina, holds Byproduct Materials License No. 041–0894–1 issued by the State of North Carolina under an agreement with the Nuclear Regulatory Commission (NRC or Commission) pursuant to subsection 274b of the Atomic Energy Act of 1954, as amended. The license permits the possession and use of byproduct material for industrial radiography activities in accordance with the conditions specified therein.

II

On September 9, 1992, while conducting an inspection of another NRC licensee, an NRC inspector obtained information which indicated that TESTCO had performed radiographic activities in areas under NRC jurisdiction. A review of NRC records revealed that TESTCO did not possess an NRC specific license pursuant to 10 CFR 30.3, nor had TESTCO notified the NRC of its activities by filing an NRC Form-241 as required by 10 CFR 150.20(b)(1).

The requirement that an Agreement State licensee must file Form-241 before conducting a licensed activity in a non-Agreement State allows NRC to be informed of the location and duration of the activity and permits NRC to inspect licensed activities as appropriate. Since August 9, 1991, NRC has required a fee for the filing of Form-241.

Between November 16, 1992 and April 25, 1995, an investigation was conducted by the NRC Office of Investigations (OI) to determine whether TESTCO performed radiography in non-Agreement States and deliberately withheld notification from the NRC by failing to file Form-241s. In addition, an inspection of the Licensee's performance of activities in areas of NRC jurisdiction was conducted on August 31 and September 6, 1994. The results of the inspection and investigation indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. Specifically, OI concluded that TESTCO, Inc., while a State of North Carolina radioactive materials licensee, performed radiographic services in Virginia, a non-Agreement State, and its Radiation Safety Officer deliberately withheld notification to the NRC by his failure to file the required NRC Form-241s regarding those activities. A written Notice of Violation and Proposed Imposition of Civil Penalty (''Notice'') was served upon the Licensee by letter dated October 31, 1995. The Notice stated the nature of the violation, the provisions of the NRC's requirements the Licensee had violated, and the amount of the civil penalty proposed for the violation.

The Licensee responded to the Notice in letters dated December 20 and 21, 1995 (''Reply''). In its Reply, the Licensee denied the violation and requested a hearing. As the basis for the Licensee's denial, the Licensee contended that prior to October 3, 1994, which the Licensee described as the date of ''the issue of NRC Manual Chapter 1220,'' the NRC did not have a tracking method in place for processing NRC Form-241s and that TESTCO had located copies of NRC Form-241s filed prior to that time.

By letter dated December 28, 1995, NRC responded to the Licensee's request for a hearing, indicating that a request for a hearing on this issue was premature and requesting that TESTCO provide to Mr. James Lieberman, Director, NRC Office of Enforcement, at the address specified, any additional documentation that was relevant to the case by January 27, 1996. The NRC letter further advised that even if the documentation was incomplete, TESTCO should still provide whatever documentation it had to support its position. During a telephone conference held on January 31, 1996, as confirmed by letter dated February 1, 1996, NRC granted an extension giving TESTCO until February 7, 1996, to provide to the NRC Office of Enforcement any documents that it had in its possession or control which might rebut the October 31, 1995 Notice, including any NRC Form-241s and any checks for reciprocity fees regarding work performed in Virginia from January

1992 to January 1994. As further discussed in the Appendix to this Order, TESTCO did submit some information in a facsimile communication on March 5, 1996, but did not provide documentation addressing the dates and locations of work stated in the Notice, as NRC had requested. As of the date of this Order, TESTCO has not provided the documentation (copies of Form-241) that TESTCO claimed it had located in its Reply denying the violation.

III

After consideration of the Licensee's Reply, the statements of fact, explanation, and argument for mitigation contained therein, and the lack of further response, the NRC staff has determined, as set forth in the Appendix to this Order, that the violation occurred as stated and that the penalty proposed for the violation designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The Licensee pay a civil penalty in the amount of $5,000 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to Mr. James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. A request for hearing should be clearly marked as a ''Request for an Enforcement Hearing'' and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region II, 101 Marietta Street, Suite 2900, Atlanta, Georgia 30323.

If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the Licensee was in violation of the Commission's requirements as set forth in the Notice referenced in Section II above, and

(b) Whether, on the basis of such violation, this Order should be sustained.

Dated at Rockville, Maryland this 14th day of March 1996.

For the Nuclear Regulatory Commission.

James Lieberman,

Director, Office of Enforcement.

Appendix—Evaluation and Conclusion

On October 31, 1995, a Notice of Violation and Proposed Imposition of Civil Penalty (''Notice'') was issued for a violation identified during an NRC inspection and investigation. TESTCO, Inc. (the Licensee) responded to the Notice in letters dated December 20 and 21, 1995 (''Reply''). The Licensee denied the violation. The NRC's evaluation and conclusion regarding the Licensee's denial are as follows:

Restatement of Violation

10 CFR 30.3 requires in relevant part, that no person shall possess or use byproduct material except as authorized by a specific or general license issued by the NRC.

10 CFR 150.20(a) provides in part that any person who holds a specific license from an Agreement State is granted an NRC general license to conduct the same activity in non-Agreement States subject to the provisions of 10 CFR 150.20(b).

10 CFR 150.20(b)(1) requires, in part, that any person engaging in activities in non-Agreement States shall, at least 3 days before engaging in such activity, file four copies of Form-241, ''Report of Proposed Activities in Non-Agreement States,'' with the Regional Administrator of the appropriate NRC regional office.

Contrary to the above, between January 7, 1992 and January 22, 1994, TESTCO, Inc. performed radiography using Iridium-192 in Virginia, a non-Agreement State, at the following locations on the indicated dates without a specific license issued by the NRC and without filing any copies of Form-241 with the NRC:

1. Yorktown, on or about January 7 and 13, 1992;
2. Goochland, on or about March 20, 1992;
3. Lynchburg, on or about March 24, 1992;
4. Yorktown, on or about September 9 and 11, 1992;
5. Franklin, on or about February 4, 1993;
6. Boydton, on or about April 12, 1993;
7. Craney Island, on or about August 13 and 27, 1993; and
8. Hillsville, on or about January 22, 1994

This is a Severity Level III violation (Supplements VI and VII). Civil Penalty—$5,000.

Summary of Licensee's Response to Violation

In its Reply, the Licensee denied that the violation occurred as stated and requested a hearing on the matter. The Licensee claimed as the basis for its denial that before October 3, 1994, which the Licensee describes as the date of ''the issue of NRC Manual Chapter 1220,'' the NRC did not have a tracking method in place for processing NRC Form-241s and revisions. In addition, the Licensee stated that it had located TESTCO, Inc.'s copies of NRC Form-241s which were filed prior to October 3, 1994.

NRC Evaluation of Licensee's Response

By letter dated December 28, 1995, the NRC responded to the Licensee's request for hearing. The NRC informed TESTCO, Inc. that a hearing in this matter was premature in that a civil penalty only had been proposed and not yet imposed by Order. Further, the NRC requested that the Licensee provide to Mr. James Lieberman, Director NRC Office of Enforcement, at the address specified, by January 27, 1996, any additional documentation that it had to show that it had filed Form-241s and paid the appropriate fees for the dates and locations of work stated in the Notice. In the letter, the NRC indicated that even if the documentation was incomplete, the Licensee should still provide whatever documentation it had to support its position. During a telephone conference on January 31, 1996, and as confirmed by NRC letter dated February 1, 1996, an extension was granted giving the Licensee until

February 7, 1996 to provide to the NRC Office of Enforcement any documents that it may have in its possession or control which might rebut the October 31, 1995 Notice, such as any NRC Form-241s and any checks for reciprocity fees regarding work performed in Virginia from January 1992 to January 1994.

Since the February 7, 1996 NRC letter, the NRC has received two additional communications from the Licensee and/or its attorneys:

(1) In a February 13, 1996 letter concerning settlement, addressed to Mr. James Lieberman, Director of NRC's Office of Enforcement, the Licensee and its attorneys contended that the civil penalty amount should not have been determined in accordance with the NRC Enforcement Policy that became effective June 30, 1995 (NUREG 1600), because the violations occurred before that date. However, the NRC staff chose to use the newer Enforcement Policy because by doing so, the civil penalty amount was reduced, thus producing a result that was advantageous to the Licensee.[1]

(2) In a March 5, 1996 facsimile communication to Mr. David Collins of the NRC Region II Office, Mr. J. L. Shelton, the Licensee's president, included some documentation concerning work performed in the Fall of 1994, but that documentation is not relevant to the dates and locations of work that are set forth in the Notice. In the facsimile, Mr. Shelton also made an assertion that a listing of dates and locations of work performed by TESTCO, Inc. in NRC jurisdictions, compiled by NRC's Office of Investigations (OI), ''appears to have locations * * * that Testco, Inc., or J. L. Shelton has never worked at.'' Thus, while the Licensee did submit some additional information, the Licensee has not provided the documentation, as requested by NRC, that the Licensee claimed it had located in its Reply denying the violation (*i.e.*, copies of Form–241 relevant to the dates and locations of work that are set forth in the Notice). The Licensee also has not provided any other documentation that specifically addresses the dates and locations of work stated in the Notice. The NRC believes that the listing of dates and locations of work performed in NRC jurisdictions, as set forth in the Notice, is reliable because it is based on documentary evidence, including work records and invoices.

In its Reply, the Licensee questioned the reliability of NRC's findings due to what the Licensee claims was the lack of an NRC Form-241 tracking system prior to October 3, 1994. However, NRC Manual Chapter 1220, ''Processing of NRC Form-241, 'Report of Proposed Activities in Non-Agreement States,' and Inspection of Agreement State Licensees Operating Under 10 CFR 150.20,'' has been in effect since March 1988. The October 3, 1994 date that the Licensee relies on is merely the date that a revision of Manual Chapter 1220 was effected.

Beginning in March 1988, in accordance with Manual Chapter 1220, each Region was required to maintain records of NRC Form-241 activities including the reports received, the reciprocity activities conducted, inspections performed, and noncompliances identified. Hardcopy information was, and continues to be, retained in the NRC Region II Docket Files, the repository for official records related to NRC Region II materials licensing and inspection activities. Moreover, from January 1991 through January 1994, the NRC Region II Office did have in place a method to track the filing of Form-241s by a log maintained on a computer. Prior to that time, Region II tracked the filing of Form-241s manually by using a log book. After that time, an NRC agency-wide computerized system was used to document and track the filing of Form-241s.

Further, at the predecisional enforcement conference held with TESTCO, Inc. on July 27, 1995, the Licensee indicated it had additional information to support its contention that NRC Form-241s were filed. Since that time, no such information has been provided.

In the absence of additional documentation from TESTCO, Inc., as was requested, to support its position and refute the facts disclosed by NRC, the NRC concludes that the violation occurred as stated.

NRC Conclusion

The NRC has concluded that this violation occurred as stated and no adequate basis for withdrawal of the violation or mitigation of the civil penalty has been provided by the Licensee. Consequently, the proposed civil penalty in the amount of $5,000 should be imposed.

[FR Doc. 96–7952 Filed 4–1–96; 8:45 am]

BILLING CODE 7590–01–P

[1] Under the current Enforcement Policy (NUREG–1600), the civil penalty was calculated by increasing the base civil penalty of $5,000 by 100% to $10,000, considering the factors of Identification and Corrective Action, and in view of the willful nature of the violation. Then, after consulting with the Commission, the NRC staff applied enforcement discretion, based in part on the small size of the Licensee, to reduce the amount of the civil penalty from $10,000 to $5,000. Under the Enforcement Policy in effect at the time that the violation was occurring (10 CFR Part 2, Appendix C), the base civil penalty of $5,000 could have been increased by 300% to $20,000, considering the factors of Identification, Corrective Action, Multiple Occurrences, and Prior Notice, and in view of the willful nature of the violation.

Sunshine Act Meetings

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of April 1, 8, 15, and 22, 1996.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 1

Monday, April 1

10:00 a.m.
Affirmation Session (Public Meeting) (if needed)

Thursday, April 4

10:00 a.m.
Briefing on PRA Implementation Plan (Public Meeting) (Contact: Ashok Thadani, 301–415–1274)
11:30 a.m.
Affirmation Session (Public Meeting) (if needed)
2:00 p.m.
Briefing on Status of Activities with CNWRA and HLW Program (Public Meeting)
(Contact: Shirley Fortuna, 301–415–7804)

Week of April 8—Tentative

There are no meetings scheduled for the Week of April 8.

Week of April 15—Tentative

There are no meetings scheduled for the Week of April 15.

Week of April 22—Tentative

There are no meetings scheduled for the Week of April 22.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically,

please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 96–8195 Filed 3–29–96; 3:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

[Docket No. A96–12]

Walters, Minnesota 56092 (Henry J. Kalis, Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

(Issued March 27, 1996).

Before Commissioners: Edward J. Gleiman, Chairman; W.H. ''Trey'' LeBlanc III, Vice-Chairman; George W. Haley; H. Edward Quick, Jr.

Docket Number: A96–12

Name of Affected Post Office: Walters, Minnesota 56092.

Name(s) of Petitioner(s): Henry J. Kalis.

Type of Determination: Closing.

Date of Filing of Appeal Papers: March 21, 1996.

Categories of Issues Apparently Raised:

1. Effect on postal services [39 U.S.C. 404(b)(2)(C)].

2. Effect on the community [39 U.S.C. 404(b)(2)(A)].

After the Postal Service files the administrative record and the Commission reviews it, the Commission may find that there are more legal issues than those set forth above. Or, the Commission may find that the Postal Service's determination disposes of one or more of those issues.

The Postal Reorganization Act requires that the Commission issue its decision within 120 days from the date this appeal was filed (39 U.S.C. 404 (b)(5)). In the interest of expedition, in light of the 120-day decision schedule, the Commission may request the Postal Service to submit memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request and the Postal Service shall serve a copy of its memoranda on the petitioners. The Postal Service may incorporate by reference in its briefs or motions, any arguments presented in memoranda it previously filed in this docket. If necessary, the Commission also may ask petitioners or the Postal Service for more information.

The Commission orders:

(a) The Postal Service shall file the record in this appeal by April 5, 1996.

(b) The Secretary of the Postal Rate Commission shall publish this Notice and Order and Procedural Schedule in the Federal Register.

By the Commission.

Margaret P. Crenshaw,

Secretary.

March 21, 1996
Filing of Appeal letter
March 27, 1996
Commission Notice and Order of Filing of Appeal
April 15, 1996
Last day of filing of petitions to intervene [see 39 C.F.R. 3001.111(b)]
April 25, 1996
Petitioner's Participant Statement or Initial Brief [see 39 C.F.R. 3001.115(a) and (b)]
May 15, 1996
Postal Service's Answering Brief [see 39 C.F.R. 3001.115(c)]
May 30, 1996
Petitioner's Reply Brief should Petitioner choose to file one [see 39 C.F.R. 3001.115(d)]
June 6, 1996
Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 C.F.R. § 3001.116]
July 19, 1996
Expiration of the Commission's 120-day decisional schedule [see 39 U.S.C. 404(b)(5)]

[FR Doc. 96–7903 Filed 4–1–96; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:
Rule 17a–4
SEC File No. 270–198
OMB Control No. 3235–0279

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is publishing the following summary of collection for public comment.

Rule 17a–4 requires exchange members, brokers and dealers to preserve for prescribed periods of time certain records required to be made under Rule 17a–3. It is anticipated that approximately 8,300 broker-dealers are required to comply with Rule 17a–4 and each will spend 250.25 hours per year complying with the rule. The total annual burden is estimated to be 2,077,075 hours.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W. Washington, DC 20549.

Dated: March 27, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7983 Filed 4–1–96; 8:45 am]

BILLING CODE 8010–01–M

Requests Under Review by Office of Management and Budget

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:
Form 40–F
SEC File No. 270–335
OMB Control No. 3235–0381

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for approval of extension on the following:

Form 40–F that is used by certain Canadian issuers to register securities pursuant to Section 12 of the Securities Exchange Act of 1934 (''Exchange Act'') or as an annual report pursuant to Section 13(a) or 15(d) of the Exchange Act. An estimated 320 submissions are made pursuant to Form 40–F, resulting in an estimated annual total burden of 640 hours.

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments

concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: March 26, 1996.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–7982 Filed 4–1–96; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary of Transportation

[Docket No. OST–96–1188]

Proposed Freight Transportation Policy

AGENCY: Office of the Secretary of Transportation, Department of Transportation.

ACTION: Notice of proposed policy.

SUMMARY: The Department of Transportation is publishing for comment a proposed policy statement on freight transportation that establishes the most important principles that will guide Federal decisions affecting freight transportation across all modes. These guiding principles will direct decisions to improve the Nation's freight transportation systems to serve its citizens better by supporting economic growth, enhancing international competitiveness and ensuring the system's continued safety, efficiency and reliability while protecting the environment.

DATES: Comments on this proposed policy will be received until May 31, 1996.

ADDRESSES: Submit written, signed comments to Docket No. OST–96–1188, the Docket Clerk, U. S. Department of Transportation , Room PL–401, C–55, 400 Seventh Street, S.W., Washington, D.C. 20590. All comments received will be available for examination at the above address between 9:00 a.m. and 5:00 p.m., ET, Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped envelope or postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Carl Swerdloff, Office of Economics, at (202) 366–5427, Office of the Secretary, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 8:30 a.m. to 5:00 p.m. ET, Monday through Friday, except Federal holidays.

Proposed Freight Transportation Policy Statement

I. Introduction

This statement of guiding principles for the Nation's freight transportation system sets forth a DOT policy framework that will shape important decisions affecting freight transportation across all modes. Our interest is to ensure the Nation has a safe, reliable, and efficient freight transportation system that supports economic growth and international competitiveness both now and in the future, while contributing to a healthy and secure environment. The goal of this statement is to provide guidance for making the Nation's transportation system serve its citizens better. To achieve this goal, new partnerships must be formed among public agencies, the freight transportation industries and shippers.

Highways, airports, rail facilities, ports, pipelines, waterways, intermodal transportation, and the freight carriers they serve all play a vital role in the Nation's economic health. An efficient transportation system results in lower production and logistics costs for U.S. firms and better prices for consumers. In order to compete successfully in international markets U.S. firms must be able to rely on an efficient domestic freight transportation system that is effectively managed. The freight transportation system must also support achievement of other national goals by fostering safe, effective, timely and environmentally sound freight transportation that improves the quality of life for all U.S. citizens.

Effective freight transportation policy and planning must consider that much of our transportation infrastructure is provided by the different levels of government while major portions are put in place by private capital. This fusion of public and private investment creates economic opportunities and regulatory conflicts, both of which must be considered in the development of a national freight policy.

II. Recent Trends in Freight Movements

Freight moves on systems of increasingly integrated supply chains and distribution networks operating in States and metropolitan areas, as well as regionally, nationally, and internationally. Reliance on just-in-time production and inventory management practices has increased the demand for more efficient and reliable freight transportation that is fast and on time. Shippers are increasingly rationalizing the mix of transportation, inventory, handling, and loss and damage costs, striving to reduce their total logistics costs. They are increasingly using fast, reliable transportation in place of large inventories.

The productivity of freight transportation firms and their ability to provide timely and reliable service depends not only on the efficiency of individual modal systems and the effectiveness of the laws and regulations under which they operate, but also on the efficiency of intermodal facilities that govern the effectiveness of their connections to one another. U.S. intermodal freight transportation links the various modes to meet customers' market needs by providing integrated origin-to-destination service. It utilizes advanced technologies and operating systems designed to enhance productivity, reduce transportation costs, increase service speed and quality for shippers and lower prices for consumers.

International freight movement takes advantage of the latest innovations in the global marketplace that reduce cost and better serve the customer. Customers are establishing global supply chains. Innovations that are developed by individual carriers are copied by others when results in savings or service are seen. The use of real-time, interactive electronic data interchange, and vessel/asset sharing agreements all provide more efficient and rapid transportation of international freight movements.

Contractual regimes governing the movement of freight have been established by the private sector which sometime result in conflicts with public regulations and create impediments to the safe and efficient operation of freight transportation. Government typically regulates the safety, and environmental aspects of infrastructure and equipment. It also may be appropriate for Government to facilitate problem solving and provide technical assistance where private and public sector requirements create barriers to safe and efficient freight movement. Economic consequences are increasingly a matter of market decisions by the private sector.

III. Principles of Federal Freight Transportation Policy

The following eight principles provide the basis for a Federal freight transportation policy:

1. Provide a planning framework that establishes priorities for allocation of resources for Federal funding of cost-effective public infrastructure investments that support broad national goals.
2. Promote economic growth by removing unwise or unnecessary regulation and through the efficient pricing of public transportation infrastructure.
3. Ensure a safe transportation system.
4. Protect the environment and conserve energy.
5. Use advances in transportation technology to promote transportation efficiency, safety and speed.
6. Effectively meet our defense and emergency transportation requirements.
7. Facilitate international trade and commerce.
8. Promote effective and equitable joint utilization of transportation infrastructure for freight and passenger service.

1. Provide a Planning Framework That Establishes Priorities for Allocation of Resources for Federal funding of Cost-Effective Public Infrastructure Investments That Support Broad National Goals

Enactment of ISTEA, with its requirement for greater emphasis on intermodal and freight policy issues, marked a new era in transportation investment decision-making. The transportation planning process has become increasingly important. Metropolitan and state officials are now required to identify major freight distribution corridors; they are also urged to work with carriers and industry to find ways for improving the efficiency of freight movements. The transportation planning procedures adopted in ISTEA resulted in an improved approach to developing freight transportation policy at all levels of government.

While much of the surface transportation infrastructure is provided by the private sector (e.g., rail freight facilities, waterside and truck terminals, oil and gas pipelines), a greater portion of it would not be built or maintained without public financial support, and all of it is affected by Federal policies. Private facilities are often dependant on public investment for their effectiveness, (e.g. waterside terminals that require public channels, etc.). Federal participation may be appropriate when infrastructure investment projects have a national or regional significance or when Federal involvement may facilitate the resolution of a freight transportation problem. The value of a particular transportation facility is often dependent on the existence and effectiveness of a regional or national network which is often a Federal concern and responsibility.

In cooperation with DOT and other Federal agencies, the Office of Management and Budget (OMB) has established guidelines for the economic analysis of Federal infrastructure investments.[1] The guidelines apply rigorous cost-benefit standards to all proposed investments, including a provision that requires the measurement of costs and benefits over a project's life-cycle. The OMB guidelines also seek to encourage, when appropriate, private sector participation in infrastructure projects and more cost-effective State and local infrastructure investment programs.

2. Promote Economic Growth by Removing Unwise or Unnecessary Regulation and Through the Efficient Pricing of Public Transportation Infrastructure

Although freight transportation services are provided almost exclusively by the private sector, the Federal Government plays an essential role in maintaining competition in the transportation marketplace and in protecting the public from unsafe and environmentally damaging transportation operations. By promoting competition, Federal policies can help to foster an environment that encourages improvements and changes that reduce transportation and logistics costs. National objectives for the freight transportation system can be addressed through Federal activities such as deregulation of entry and ratemaking in the trucking and air cargo industries, in order to foster an effective, competitive freight transportation environment.

As the logistical requirements of businesses become more complex, some shippers and transportation providers will rely increasingly on intermodal services. Such services should not be hindered by artificial constraints. Physical and institutional barriers that impede the flow of freight from one mode of transportation to another should be eliminated. The elimination of physical, and operational barriers to freight intermodal operations is primarily the responsibility of transportation carriers, shippers, and state and local government. The Federal Government, however, may take action to improve public infrastructure that is inadequate to support essential freight intermodal operations or to reduce legal and regulatory barriers such as those that until 1996 impeded railroad ownership of barge and trucking companies. The Federal Government may also encourage state and local governments to take necessary action, or in extreme cases even preempt them, in order to reduce statutory impediments to intermodal transportation.

The prices charged for public sector transportation facilities and services determine whether they are used efficiently. Public facilities costs that are not included in the transportation rates paid by shippers may lead to inefficient use of the Nation's limited transportation resources. Whenever feasible, fees and taxes adequate to cover the cost of building, operating, and maintaining public infrastructure facilities should be recovered from the parties that use and benefit from them.

Federal actions must be evaluated not only for their short-term impacts but for their longer-term consequences for maintaining viable, competitive, multimodal freight transportation to serve the Nation. Therefore, freight regulatory and investment policies must be evaluated in the context of likely future changes in the linkages between freight transportation performance and economic performance at the local, regional, national and international levels. The DOT has recently completed a comprehensive assessment of its regulations as part of the National Performance Review. It will reexamine its policies, programs and regulations periodically to assess their effectiveness and whether they should be continued.

3. Ensure a Safe Transportation System

Making the transportation system safer is a critical Federal policy objective. Because the marketplace alone may not be effective in producing an acceptable level of public safety, the Federal Government will continue to promote transportation safety through regulation and enforcement, education, and support of voluntary compliance efforts by industry. Responsibility for maintaining and improving the safety of our freight transportation networks requires the cooperation of each level of government and the private sector.

The Federal Government will continue to support safety research and the dissemination of information related to safety. The DOT will continue to support activities to improve the information base needed to monitor the safety performance of all freight transportation modes including the full social costs of accidents. Federal research will focus on the causes of transportation accidents: the role of

[1] Executive Order 12893, ''Principles for Federal Infrastructure Investments,'' Federal Register, Volume 59, No. 20, January 31, 1994.

truck, rail, aircraft, and vessel design and performance in accidents and their solutions, as well as the contribution of human factors and infrastructure design. The Federal Government will also continue to work with the private sector on a cooperative basis, to ensure that proven safety advances are rapidly incorporated into practice, especially when substantial public benefits will result from their adoption.

4. Protect the Environment and Conserve Energy

Responsible environmental protection is another important Federal policy objective and, like transportation safety, environmental protection requires the cooperation of all levels of government and the private sector. The total social costs of environmental degradation are not borne by the transportation users, e.g., the social costs associated with pollution are not reflected in the costs incurred by the users or prices charged for transportation services. Thus, the Federal Government plays and must continue to play an important role in reducing these social costs and ensuring that they are more accurately reflected in the price of transportation services through appropriate regulation or modifications to existing programs. In addition, the Federal Government will continue to support research and technology development that is directed at increasing transportation productivity while maintaining environmental protection.

In pursuing its environmental protection objective, the Federal Government needs to continue to assess the impacts of environmental regulation on the performance of transportation operations and will work with the private sector to implement appropriate environmental protection measures and technologies in a cost effective and environmentally sound manner. The Federal Government will seek to develop regulations that contain performance-based rather than technology specific standards or criteria so as to permit industry flexibility and innovation in meeting regulatory requirements. DOT will continue working to develop techniques for conserving energy and for better quantifying the social costs of environmental and community degradation.

5. Use Advances in Transportation Technology To Promote Transportation Efficiency, Safety and Speed

Application of advanced technology in the transportation system offers significant opportunities to improve its safety, efficiency, capacity and productivity.

Private firms invest in advanced communication, navigation, surveillance, and information technologies which improve the efficiency of their operations. These advanced technologies facilitate the movement and tracking of goods and vehicles as well as the exchange of information among carriers and their customers in the intermodal transportation system. They also offer tools for strengthening intermodal connections. Public and private investments for applying these advanced technologies to the air, highway, marine, and rail infrastructures have improved the overall efficiency of the transportation system.

DOT's Federal role in research and development of technologies is to promote the efficiency and safety of the national transportation system and to support the application of technologies in the movement of freight. Specifically, DOT provides leadership for the interagency coordination of Federal transportation research. This includes maintaining close dialogue with the private sector and state and local governments to ensure that DOT research funding reflects priorities of freight transportation users and providers. DOT will maintain a leadership role in development of an intermodal research framework.

Advances in information technology are having a dramatic effect on transportation requirements and the planning of future capacity investments. DOT works with the private sector to facilitate communications across modes for intermodal compatibility of technology applications, such as Global Positioning Systems (GPS) and Geographic Information Systems (GIS). DOT coordinates with other federal agencies, such as the Department of Defense and the National Oceanic and Atmospheric Administration, to ensure that underlying data (such as weather and positioning information) required as input to these various systems continue to be available.

DOT will continue to work closely with the freight industry to ensure that the United States is well represented in international transportation technology and standards forums.

6. Effectively Meet Defense and Emergency Transportation Requirements

Recent changes in our Nation—s defense strategy and the downsizing of the U.S. military establishment have increased the need for effective deployment of those forces in times of a national emergency. They have emphasized the need for rapid deployment of large numbers of people and large amounts of material on short notice. Similarly, when natural disaster strikes, a high-quality, multimodal transportation system is critical to ensuring the safety of the affected population and the ability of local, State and Federal officials to start rebuilding devastated communities. Deploying personnel, equipment, and supplies through the air, over land or on the seas, requires well-planned and maintained transportation systems and facilities for both the military mission and disaster relief operations.

The Department of Defense has adopted policies that will require greater use of civilian transportation resources in meeting its transportation needs. The Nation's freight transportation operators, therefore, have an essential role to play in the mobilization and deployment of personnel, equipment and supplies in the event of a national emergency or a natural disaster. The DOT will continue to work with the Department of Defense, other Federal agencies, and the transportation community to identify short- and long-term national defense and emergency transportation requirements and to ensure that the transportation system can meet those requirements.

7. Facilitate International Trade and Commerce

To retain and enhance the Nation's competitive position and its economic vitality, domestic firms must have access to foreign markets through an efficient transportation system. A competitive international transportation industry requires highly efficient connections to and within the domestic transportation system. Where international trade agreements have been negotiated, as in the case of NAFTA and the GATT, regulatory policy decisions that primarily affect international freight movements should also consider their implications for domestic freight operations and competition. Government can provide new opportunities for American exporters by leading negotiations with countries in the European Economic Community and with emerging markets, such as those in East Asia and Latin America, and by providing technical assistance programs to promote American transportation and infrastructure technologies.

8. Promote Effective and Equitable Joint Utilization of Transportation Infrastructure for Freight and Passenger Service

The efficient use of the Nation's transportation infrastructure may require the joint use of facilities by freight and passenger transport operators. When appropriate, the Federal Government, in conjunction with State and local agencies and the private sector, will support the equitable sharing of transportation facilities and infrastructure and reasonable compensation for their use.

Potential safety problems and reduced freight transportation operations efficiency may arise from the sharing of facilities. These concerns should be taken into account in policy initiatives that address the joint use of facilities. The DOT will continue to support research in this area and will encourage transportation firms to adopt new technologies and operating practices that would reduce the adverse consequences that may arise from the joint use of facilities.

Issued in Washington, DC on March 26, 1996.

Federico Peña,

Secretary of Transportation.

[FR Doc. 96–7953 Filed 4–1–96; 8:45 am]

BILLING CODE 4910–62–P

Coast Guard

[CGD 95–066]

National Environmental Policy Act Draft Environmental Impact Statement: Living Marine Resource Protection Plan for U.S. Coast Guard Activities Along the U.S. Atlantic Coast

AGENCY: Coast Guard, DOT.

ACTION: Notice of intent of prepare a draft environmental impact statement and notice of scoping.

SUMMARY: The Coast Guard announces its intent to prepare and circulate a draft Environmental Impact Statement (DEIS) for the Protected Living Marine Resource Program that it is developing for the Atlantic Coast of the United States. In preparing the Protected Living Marine Resource Program, the Coast Guard plans to review the measures it develops during its formal Endangered Species Act consultation with the national Marine Fisheries Service (NMFS) to protect threatened or endangered species.

DATES: Comments must be received on or before May 2, 1996.

ADDRESSES: Comments may be mailed to Commandant (G–OCU), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593–0001, or may be delivered to room 3216 at the same address between 8 a.m. and 3 p.m. Monday through Friday except Federal holidays. Comments will be available for inspection or copying at room 3216, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Captain J. A. Creech at (202) 267–1965 or by fax at (202) 267–4674.

SUPPLEMENTARY INFORMATION: .

Request for Comments

The Coast Guard encourages interested persons to submit written data, views or arguments. Persons submitting comments should include their names and addresses and identify this notice (CGD 95–066). Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard invites comments and suggestions on the proposed scope of the DEIS. Scoping will help the Coast Guard ensure that a full range of issues related to this proposal are addressed, and will help identify potentially significant impacts.

The Coast Guard will consider all comments received during the comment period The DEIS and comments received will be received during the formal consultation between the U.S. Coast Guard and the National Marine Fisheries Service.

Background Information

On August 9, 1995, the Coast Guard published in the Federal Register (60 FR 40631) a notice of availability and request for comments announcing the availability of an Environmental Assessment (EA) and a proposed Finding of No Significant Impact (FONSI) on Coast Guard activities along the U.S. Atlantic Coast. On October 11, 1995, the Coast Guard published in the Federal Register (60 FR 52949) a notice reopening and extending the comment period for the EA and FONSI.

The EA focused on the six whale, and five turtle species listed as threatened or endangered found along the Atlantic coast. The Coast Guard received comments from Federal, State and local agencies and the public.

As a result of new information concerning the October 1995 interaction between a Coast Guard vessel and a suspected Humpback whale, and recent Northern Right Whale fatalities; and as a result of comments received in response to the EA and FONSI, the Coast Guard has determined that an EIS is the appropriate document to assess the impacts of the proposed project under Section 102(2)(C) of the National Environmental Policy Act of 1969. All known or proposed alternatives will be evaluated and considered.

Proposed Action

The Coast Guard's DEIS will examine alternative measures contributing to protection and recovery of species currently listed as threatened or endangered. The measures proposed in the EA and by commenters to the EA include:

1. Reviewing vessel documentation and inspection programs.
2. Training programs for vessel lookouts.
3. Distributing notices of species locations via the NAVTEX program.
4. Regulating minimum distances between protected species and vessels or aircraft.
5. Surveying critical habitat areas, noting presence and activities of protected species.
6. Increasing enforcement of existing laws.
7. Participating in regional whale recovery implementation groups.
8. Establishing or modifying vessel traffic routes.
9. Developing Coast Guard-wide and regional procedures to alert employees of seasonally-heightened potentials for interaction with protected species.
10. Including protected species awareness information in basic boating safety training provided to the public.
11. Notifying the National Marine Fisheries Service regional office when a significant incident is brought to attention of the Coast Guard.
12. Participating in regional species stranding networks.
13. Surveying lighting options for Coast Guard stations in the vicinity of turtle nesting beaches.

Significant areas to be explored include: identification of endangered or threatened species, and their habits; review of all present operational requirements for Coast Guard vessels and aircraft; identification of designated critical habitat areas and species high-density areas; and evaluation of the potential occurrence of multiple activities combining to produce beneficial or harmful effects not otherwise likely.

The Coast Guard will evaluate the latest data on the habits of protected species; and will consider the location of Coast Guard stations and vessels; the navigational capabilities of Coast Guard vessels; the training of Coast Guard

employees related to protected species; and possible modifications to vessel traffic control and aircraft operations.

The DEIS will consider the cumulative impacts of Coast Guard assets operating together and in conjunction with other vessels.

No public meeting is currently scheduled. However, if comments indicate that a public meeting would yield useful data or opinions, the Coast Guard may schedule a meeting at a later date.

Dated: March 27, 1996.

J.A. Creech,

Capital, U.S. Coast Guard, Chairman-Endangered Species Act Compliance Team.

[FR Doc. 96–7958 Filed 4–1–96; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review; Chico Municipal Airport (CIC) Chico, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed Noise Compatibility Program that was submitted by the City of Chico for Chico Municipal Airport (CIC), Chico, California, under the provisions of Title 1 of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96–193) (hereinafter referred to as ''the Act'') and 14 CFR Part 150. This program was submitted subsequent to a determination by the FAA that associated Noise Exposure Maps submitted under 15 CFR Part 150 for Chico Municipal Airport where in compliance with applicable requirements effective April 23, 1993. The proposed Noise Compatibility Program will be approved or disapproved on or before September 21, 1996.

EFFECTIVE DATE: The effective date of the start of the FAA's review of the Noise Compatibility Program is March 22, 1996. The public comment period ends May 21, 1996.

FOR FURTHER INFORMATION CONTACT: Joseph Rodriguez, Federal Aviation Administration, San Francisco Airports District Office, 831 Mitten Road, Burlingame, California 94010–1303, Telephone (415) 876–2805. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed Noise Compatibility program for Chico Municipal Airport which will be approved or disapproved on or before September 18, 1996. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted Noise Exposure Maps that are found by the FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a Noise Compatibility Program for the FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has formally received the Noise Compatibility Program for Chico Municipal Airport effective on March 22, 1996. It was requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a Noise Compatibility Program under Section 104(b) of the Act. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of Noise Compatibility Programs but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to maximum of 180 days, will be completed on or before September 18, 1996.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, Section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the Noise Exposure Maps, the FAA's evaluation of the maps, and the proposed Noise Compatibility Program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, DC 20591.

Federal Aviation Administration, Western-Pacific Region, Airports Division, 15000 Aviation Boulevard, Room 3E24, Hawthorne, California. Mail: P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

Mr. Thomas J. Lando, City Manager, Chico Municipal Airport, P.O. Box 3420, Chico, California 95354–3916.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Hawthorne, California on March 22, 1996.

Robert C. Bloom,

Acting Manager, Airports Division, AWP–600, Western-Pacific Region.

[FR Doc. 96–7968 Filed 4–1–96; 8:45 am]

BILLING CODE 4910–13–M

Savannah International Airport Savannah, GA; FAA Approval of Noise Compatibility Program and Determination on Revised Noise Exposure Maps

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Savannah Airport Commission under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR Part 150. These findings are made in recognition of the description of federal and nonfederal responsibilities in Senate Report No. 96–52 (1980). On August 23, 1993, the FAA determined that the noise exposure maps submitted by the Savannah Airport Commission under Part 150 were in compliance with applicable requirements. On February 23, 1996, the Administrator approved the Savannah International Airport noise compatibility program. Most of the recommendations of the program were approved. The Savannah Airport Commission has also requested under FAR Part 150, Section 150.35(f), that FAA determine that the revised noise exposure map submitted with the noise compatibility program and showing noise contours as a result of the implementation of the noise compatibility program is in compliance with applicable requirements of FAR Part 150. The FAA announces its determination that the revised noise exposure map for Savannah International Airport for the year 1997, submitted with the noise compatibility

program, is in compliance with applicable requirements of FAR Part 150 effective April 2, 1996.

EFFECTIVE DATE: The effective date of the FAA's approval of the Savannah International Airport noise compatibility program is February 23, 1996. The effective date of the FAA's determination on the revised noise exposure maps is April 2, 1996.

FOR FURTHER INFORMATION CONTACT: Catherine M. Nelmes; 1701 Columbia Avenue, Suite 2–260, College Park, Georgia, 30337–2745; (404) 305–7148. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Savannah International Airport, effective February 23, 1996, and that the revised noise exposure map for 1997 for this same airport has been determined to be in compliance with applicable requirements of FAR Part 150.

A. Under Section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulation (FAR) part 150 is a local program, not a federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Act and is limited to the following determinations:

1. The noise compatibility program was developed in accordance with the provisions and procures of FAR Part 150;

2. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

3. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

4. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR Part 150, Section 150.5. Approval is not a determination concerning the acceptability of land uses under federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Atlanta, Georgia.

The Savannah Airport Commission submitted to the FAA on May 8, 1995, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from July 1, 1992, through May 8, 1995. The Savannah International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on August 23, 1993. Notice of this determination was published in the Federal Register in September of 1993.

It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in Section 104(b) of the Act. The FAA began its review of the program on May 8, 1995, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained five proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR Part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective February 23, 1996.

Outright approval was granted for the two land use (zoning) program elements. The runway use program was approved as voluntary. Modifying flight tracks was approved in part. This measure was not approved when restricted area R–3005 is active. Restricting engine run-ups was approved as a voluntary measure. These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on February 23, 1996.

B. The FAA also has completed its review of the revised noise exposure map and related descriptions submitted by the Savannah Airport Commission. The specific map under consideration is Exhibit 12–1 in the submission. The FAA has determined that this map for Savannah International Airport is in compliance with applicable requirements. This determination is effective on April 2, 1996. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those

maps, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps and copies of the record of approval and other evaluation materials and documents, which comprised the submittal to the FAA, are available for examination at the following locations:

Atlanta Airports District Office, Federal Aviation Administration, Campus Building, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2745.

Savannah Airport Commission, 400 Airways Avenue, Savannah, Georgia 31408.

Questions on either of these FAA determinations may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Atlanta, Georgia, on March 18, 1996.

Dell T. Jernigan,

Manager, Atlanta Airports District Office.

[FR Doc. 96–7936 Filed 4–1–96; 8:45 am]

BILLING CODE 4910–13–M

International Conference on Aircraft Inflight Icing

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of conference.

SUMMARY: The FAA is issuing this notice to advise the public of an International Conference on Aircraft Inflight Icing.

DATES: The conference will be held on May 6–8, 1996, beginning at 8:30 a.m. each day. Requests to make presentations at the working group sessions must be received by April 22, 1996.

ADDRESSES: The conference will be held at the Springfield Hilton, 5660 Loisdale Road, Springfield, Virginia, near Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. James T. Riley, Federal Aviation Administration Technical Center (AAR–421), Atlantic City International Airport, New Jersey 08405; telephone (609) 485–4144; fax (609) 485–4005.

SUPPLEMENTARY INFORMATION:

Background

The conference is an integral part of the third phase of the response of the Federal Aviation Administration (FAA) to an accident of a transport category aircraft in October 1994. The goal of this phase is to review current certification requirements, applicable operating regulations, and forecast methodologies associated with aircraft icing under varying environmental conditions. Also, the conference will include a review of major aspects of airworthiness when operating in icing conditions so as to determine if changes or modifications should be made to provide an increased level of safety.

One of the primary areas of concern at the conference will be icing due to supercooled large droplets (SLD) (or other icing conditions outside of the FAA icing certification envelope described in Appendix C of Part 25 of the Federal Aviation Regulations).

The conference has two primary objectives. The first is to provide a comprehensive survey of the state-of-the-art and knowledge in the area of aircraft inflight icing. The second is to provide recommendations for short-term actions in areas such as operations, training, and education and for long-term efforts such as research, development, and rulemaking.

The FAA is seeking to obtain technical information which can form a basis for ensuring safe operations when icing conditions exist in an area. To this end, the conference seeks to bring together experts in all relevant technical areas, some of whom will give formal presentations (based on the technical papers solicited in a Call for Papers or invited from recognized experts) in various working groups. Based on the technical information provided, the working groups will make recommendations as to short- and long-term action which may be warranted.

The recommendations of the conference will be used in preparing an FAA inflight icing plan with specific actions and milestones.

Requests To Make Presentations

Persons wishing to make a brief formal presentation at any of the working group sessions are requested to notify the FAA by April 22, 1996. The request should be made to the person identified under the caption **FOR FURTHER INFORMATION CONTACT**. Because of time limitations, the working group chair will review those requests and choose a representative number to address their working group. All individuals requesting to make a presentation will be notified as to the disposition of their request.

Conference Procedures

Persons who plan to attend the conference should be aware of the following:

1. Registration forms are available from SRM, Inc., P.O. Box 569, Kensington, MD 20895, telephone (301) 949–7477; fax: (301) 949–5154. There is a registration fee of $40 for the conference, which includes a reception from 6:30 to 8:00 on Monday night and beverage breaks during the conference.

2. The conference will be held near Washington, DC at the Springfield Hilton, 5660 Loisdale Road, Springfield, Virginia. A block of rooms is being held until April 12. For reservations, call 703–971–8900 or 800–455–8667, and reference the FAA conference to get the conference rate.

3. The conference registration desk will be open from 6 to 9 p.m. on May 5 and beginning at 7 a.m. on May 6.

4. Sessions will be open to all persons who register. Attendees are requested to notify the FAA in advance if they plan to attend although lack of advance notification will not bar anyone from any session.

5. Only those recognized by the chair of any session will be permitted to speak.

Agenda

Monday, May 6

8:30 a.m.–2:45 p.m.—Plenary Session Including presentations by national and international organizations addressing key issues associated with aircraft inflight icing.

3:00 p.m.–5:30 p.m.—Concurrent Working Group Sessions.

Working Group I. Ice Protection and Ice Detection: Determination of ice protection systems appropriate to specified aircraft characteristics and icing environments. Detection of icing conditions. Use of specially located or designed ice detector or of aircraft-specific ''cues'' to recognize SLD and other icing conditions.

Working Group 2. Requirements for, and Means of Compliance in Icing Conditions (Including Icing Simulation Methods): Applicability, limitations, and ''validation'' of icing simulation techniques, including icing and wind tunnel, icing tankers, analytical codes, and flight with artificial ice shapes. For all analytical and simulation techniques, discuss limitations and possible ''validation'' standards. Icing effects on aircraft aerodynamics, performance, and stability and control. Compliance with certification standards or aircraft ''safe exit capability'' requirements by means of flight in

measured natural icing conditions and use of icing simulation methodologies.

Working Group 3. Icing Environmental Characterization: Icing environments: Appendix C of part 25 of FAR, SLD, ice crystals, snow, mixed conditions. Measurement (including processing and accuracy) of drop sizes, drop counts, liquid water content, etc. Choice of parameters to describe environment.

Working Group 4. Forecasting/Avoidance: Accuracy and timeliness of icing forecasts. The practical use of severity indices. Avoidance of forecast or known icing conditions.

Working Group 5. Operational Regulations and Training Requirements: Safe operations in areas of freezing rain or drizzle. Flight crew training to recognize and avoid or exit from severe icing, including SLD conditions. Operational definitions of icing and certification icing requirements. Use of PIREPS. Dispatch procedures related to SLD conditions.

Tuesday, May 7

8:30 a.m.–5:30 p.m.—Continuation of Working Group Sessions

Wednesday, May 8

8:30 a.m.–11:30 a.m. Continuation of Working Group Sessions
1:00 p.m.–4:00 p.m. Closing Session Including reports from the working groups

Daniel Salvano,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 96–7969 Filed 4–1–96; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss air carrier/general aviation maintenance issues.

DATES: The meeting will be held on April 16, 1996, at 8:30 a.m., and should adjourn by 3 p.m. Arrange for oral presentations by April 2, 1995.

ADDRESSES: The meeting will be held at the Air Transport Association of America, 1301 Pennsylvania Avenue, NW., Suite 1100, Washington, DC, at 8:30 a.m.

FOR FURTHER INFORMATION CONTACT: Ms. Brenda Courtney, Federal Aviation Administration, Office of Rulemaking (ARM–200), 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–3327; facsimile number (202) 267–5075.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee to be held on April 16, 1996, at Air Transport Association of America, 1301 Pennsylvania Avenue, NW., Suite 1100, Washington, DC, at 8:30 a.m.

The agenda will include:

- Vote on final NPRM recommendation from the Part 65/66 Working Group
- Status reports from working groups.

Copies of the proposed recommendation will be available to interested persons prior to the meeting. A copy may be obtained by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Attendance is open to the interested public, but will be limited to the space available. The public must make arrangements by April 2, 1996, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to the meeting. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Washington, DC, on March 26, 1996.

Frederick Leonelli,

Assistant Executive Director for Air Carrier/General Aviation Maintenance Issues, Aviation Rulemaking Advisory Committee.

[FR Doc. 96–7937 Filed 4–1–96; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement: Mingo County, WV

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Mingo County, West Virginia.

FOR FURTHER INFORMATION CONTACT: David A. Leighow, Division Environmental Coordinator, Federal Highway Administration, 550 Eagan Street, Suite 300, Charleston, West Virginia 25301, Telephone (304) 347–5329; or, Ben L. Hark, Environmental Section Chief, Roadway Design Division, West Virginia Department of Transportation, 1900 Kanawha Boulevard East, Building 5, Room A–416, Capitol Complex, Charleston, West Virginia 25305–0430, Telephone (304) 558–2885.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the West Virginia Department of Transportation (WVDOT), will prepare an Environmental Impact Statement (EIS) on a proposal to improve WV65 in Mingo County, West Virginia. The proposed project will involve the widening and upgrading or relocation of existing WV65 from Corridor G (US 119) near Belo to US 52 at Naugatuck for a distance of about 12 kilometers (7.5 miles).

Development of the proposed project is considered necessary to provide for efficient movement of both existing and projected traffic demand. Alternative under consideration include: (1) Taking no action (no build); (2) using alternate travel modes; (3) widening and upgrading the existing two-lane highway to a four-lane divided highway; and (4) constructing a four-lane divided highway on new location. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

Public involvement will occur later in the process. Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to provide organizations and citizens who have previously expressed, or are known to have interest in this proposal. Public meetings will be held in the project area. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The draft EIS will be available for public and agency review and comment prior to the public hearing. Scoping information will be provided to resource agencies in the near future.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or the West Virginia Department of Transportation at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The regulation implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: March 26, 1996.

David A. Leighow,

Environmental Coordinator, Charleston, West Virginia.

[FR Doc. 96–7896 Filed 4–1–96; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF THE TREASURY

[Treasury Order Number 100–14]

Designation of the Assistant Secretary for Financial Institutions To Serve on the Community Development Advisory Board; Authority Delegation

Dated: March 26, 1996

By virtue of the authority vested in the Secretary of the Treasury, including the authority vested by 31 U.S.C. 321(b), and by 12 U.S.C. 4703(d)(2), I hereby designate the Assistant Secretary for Financial Institutions to serve as my representative on the Community Development Advisory Board, and to exercise any power and perform any function and duty that I am authorized to exercise and perform as a member of the Advisory Board, with authority to redelegate such authority.

Robert E. Rubin,

Secretary of the Treasury.

[FR Doc. 96–7934 Filed 4–1–96; 8:45 am]

BILLING CODE 4810–25–P

Corrections

Federal Register
Vol. 61, No. 64
Tuesday, April 2, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96-220-000, et al.]

Koch Gateway Pipeline Company, et al.; Natural Gas Certificate Filings

Correction

In notice document 96–7200 beginning on page 13166, in the issue of Tuesday, March 26, 1996, make the following correction:

On page 13167, in the first column, in the third line from the bottom, the docket number ''CP9'' should read ''CP96-238-000''.

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 716

[OPPTS-82048; FRL-4996-9]

Preliminary Asessment Information and Health and Safety Data Reporting; Addition of Chemicals

Correction

In rule document 96–4519 beginning on page 7421, in the issue of Wednesday, February 28, 1996, make the following corrections:

§716.120 [Corrected]

1. On page 7425, in the 1st column, in §716.120, in the table, under the heading entitled ''Category'', in the 27th line, ''α-(octylphenyl)-α-hydroxy-, branched.'' should read ''α-(octylphenyl)-ω-hydroxy-, branched''.

2. On the same page, in the 2nd column, in §716.120, in the table, under the heading entitled ''CAS No. (exemption for category)'', in the 27th line, ''48987-90-6'' should read ''68987-90-6''.

BILLING CODE 1505–01–D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–943–1430–01; IDI–07135]

Public Land Order 7190; Revocation of Public Land Order No. 6010; Idaho

Correction

In notice document 96–7056 beginning on page 12085 in the issue of Monday, March 25, 1996, make the following corrections:

1. On page 12085, in the third column, the public land order heading should read as set forth above.

2. On the same page, in the same column, under **SUMMARY:**, in the fourth line, ''Management's'' was misspelled.

BILLING CODE 1505–01–D

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 1

RIN 2900-AH84

Rulemaking Procedures

Correction

In rule document 96–6496 appearing on page 11309 in the issue of Wednesday, March 20, 1996 make the following correction:

§1.551 [Corrected]

In the third column, the section heading should read as set forth above.

BILLING CODE 1505–01–D

Federal Register

Tuesday
April 2, 1996

Part II

Department of Education

Intent to Repay to the Maine Department of Education Funds Recovered as a Result of a Final Audit Determination; Notice

DEPARTMENT OF EDUCATION

Intent to Repay to the Maine Department of Education Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Notice of intent to award grantback funds.

SUMMARY: Notice is given that under section 459 of the General Education Provisions Act (GEPA), 20 U.S.C. 1234h, the U.S. Secretary of Education (Secretary) intends to repay to the Maine Department of Education, the State Educational Agency (SEA), an amount not more than 75 percent of the funds recovered by the U.S. Department of Education (Department) as a result of final audit determinations. This notice describes the SEA's plan for the use of the repaid funds and the terms and conditions under which the Secretary intends to make those funds available. The notice invites comments on the proposed grantback.

DATES: All comments must be received on or before May 2, 1996.

ADDRESSES: Comments concerning the grantback should be addressed to William D. Tyrrell, Sr., U.S. Department of Education, 600 Independence Avenue, S.W., Room 3609, Switzer Building, Washington, D.C. 20202–6132.

FOR FURTHER INFORMATION CONTACT: William D. Tyrrell, Sr., U.S. Department of Education, 600 Independence Avenue, S.W., Room 3609, Switzer Building, Washington, D.C. 20202–6132, telephone: (202) 205–8825. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. Internet: William__Tyrrell@ed.gov

SUPPLEMENTARY INFORMATION:

A. Background

This notice is based on the Department's recovery of funds as the result of three separate audits of Maine's Department of Education (SEA) for the periods beginning with the SEA's fiscal years July 1, 1986 and ending in June 30, 1989. The audits are identified for the specified periods of time as follows:

ACN No. and time period	Amount repaid	Amount requested
ACN 01–93025 (7/1/86–6/30/87)	$22,800	$17,100
ACN 01–93245 (7/1/87–6/30/88)	68,872	51,654
ACN 01–13035 (7/1/88–6/30/89)	82,564	61,923

The Federal programs repaid included the amounts of $159,636 Part B of the Education of Handicapped Act [1] Part B funds, $8,800 of Chapter 1 of Title I of the Elementary and Secondary Education Act, Grants to Local Educational Agencies (Chapter 1 LEA) funds, and $5,800 of Chapter 1 Migrant funds. The SEA repayed a total $174,236 to the U.S. Department of Education.

The Department's audits questioned the SEA's use of Part B–Handicapped funds and Chapter 1 Migrant and Chapter 1 LEA grants funds for legal fees without the use of a cost allocation plan or the maintenance of adequate supporting documentation; and the charging of SEA employees' salaries to Federal programs without records of time distribution for each of the employees chargeable to more than one grant program or cost objective. These charges were not supported by time distribution records as required by Federal regulations. The audits also found that the SEA had exceeded the maximum allowable amount for administrative costs in the Part B program.

B. Authority for Awarding a Grantback

Section 459(a) of GEPA, 20 U.S.C. 1234h(a), provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay, to the SEA affected by the determination, an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this grantback arrangement if the Secretary determines that the—

(a) Practices and procedures of the SEA that resulted in the violation have been corrected, and the SEA is, in all other respects, in compliance with the requirements of the applicable program;

(b) SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement that meets the requirements of the program and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the recovery of funds; and

(c) Use of funds to be awarded under the grantback arrangement, if used in accordance with the SEA's plan, would serve to achieve the purpose of the programs under which the funds were originally granted.

C. Plan For Use of Funds Awarded Under a Grantback Arrangement

Pursuant to section 459(a)(2) of GEPA, the SEA has applied for a grantback totaling $130,677, which is 75 percent of the principal amount of the recovered funds, and has submitted a plan for use of the grantback funds to meet the special education needs of children with disabilities, and the needs of disadvantage and migrant children in areas affected by the audits. Under section 459(a) of GEPA, 20 U.S.C. 1234h(c), these funds are available until three fiscal years following the fiscal year in which final agency action is taken. With respect to the funds covered by this notice, the final agency action was the execution of two settlements agreements, December 2, 1991 for ACN: 01–93025 and November 8, 1994 for ACN: 01–93245 and ACN: 01–13035. The funds recovered under ACN: 01–13025 are available for expenditure until September 30, 1996 and the funds recovered under ACN: 01–93245 and ACN: 01–13035 are available for expenditure until September 20, 1998. The plan, which has been submitted by the SEA, is to use the Chapter 1 LEA and Migrant grantback funds to pay salaries of teachers for the programs in the Blueberry Harvest and Broccoli Harvest Schools. The funds from the Part B grantback will be used to improve the process of identification of the document the educational progress of special education students; enable more effective planning for these students at both the State and local levels, and provide information to local educational agencies in a manner that will enhance program planning and enhance the State's ability to analyze results for policy development and program planning. These changes will help address the current weaknesses in the Maine Educational Assessment as it relates to special education students and move in the direction of including these students in the State's effort to set standards for all students.

D. The Secretary's Determinations

The Secretary has reviewed the plan submitted by the SEA. Based upon that review, the Secretary has determined that the conditions under section 459 of GEPA have been met.

All determinations are based upon the best information available to the Secretary at the present time. If this

[1] In 1990, the name of this Act was changed by Congress to Part B of the Individuals with Disabilities Education Act. *See* Pub. L. 101–476.

information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action. In finding that the conditions of section 459 of GEPA have been met, the Secretary makes no determination concerning any pending audit recommendations or final audit determinations.

E. Notice of the Secretary's Intent To Enter Into a Grantback Arrangement

Section 459(d) of GEPA requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the Federal Register a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 459(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to Maine under a grantback arrangement. The grantback award would total $130,677, which is 75 percent—the maximum percentage authorized by statute—of the principal amount recovered as a result of the audits.

F. Terms and Conditions Under Which Payments Under a Grantback Arrangement Would Be Made

The SEA agrees to comply with the following terms and conditions under which payments under a grantback arrangement would be made:

(a) The funds awarded under the grantback must be spent in accordance with—

(1) All applicable statutory and regulatory requirements;

(2) The plan that the SEA submitted and any amendments to the plan that are approved in advance by the Secretary; and

(3) The budget that was submitted with the plan and any amendments to the budget that are approved in advance by the Secretary.

(b) All funds received under the grantback arrangement must be obligated by September 30, 1996 for funds recovered through ACN: 01–93025, and by September 30, 1998 for funds recovered through ACN: 01–93245 and ACN: 01–13035 in accordance with section 459(c) of GEPA.

(c) The SEA will, not later than January 1, 1999, submit a report to the Secretary that—

(1) Indicates that the funds awarded under the grantback have been spent in accordance with the proposed plan and approved; and

(2) Describes the results and effectiveness of the project for which the funds were spent.

(d) Separate accounting records must be maintained documenting the expenditures of funds awarded under the grantback arrangement.

(e) Before funds will be repaid pursuant to this notice, the SEA must repay to the Department any debts that become overdue, or enter into a repayment agreement for those debts.

(Catalog of Federal Domestic Assistance Number 84.027, Handicapped State Grants, 84.012, Educationally Deprived Children, and 84.011 Chapter I—Migrant Education)

Dated: March 27, 1996.

[FR Doc. 96–7970 Filed 4–1–96; 8:45 am]

BILLING CODE 4000–01–M

Federal Register

Tuesday
April 2, 1996

Part III

The President

Proclamation 6875—Cancer Control Month, 1996

Proclamation 6876—Education and Sharing Day, U.S.A., 1996

Federal Register
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Presidential Documents

Title 3—

The President

Proclamation 6875 of March 29, 1996

Cancer Control Month, 1996

By the President of the United States of America

A Proclamation

Research and the prompt application of research results have proved to be the strongest weapons we have against cancer. And we are making great strides in the study of this deadly disease. Indeed, the understanding of the processes by which a normal cell is transformed into a cancer cell is one of the great achievements of cancer research. Genetic studies are leading to better understanding of many cancers and improving our ability to intervene and stop their spread. While the implications of some findings are still unclear, we know that further progress hinges on continued scientific inquiry, and we understand that basic research must remain a national priority. In addition, all of us can act on information already at hand to make lifestyle choices that reduce the risk of developing cancer.

Smoking is the leading cause of preventable death in the United States and contributed to nearly one-third of all cancer deaths in our Nation last year. In addition to causing 400,000 deaths, smoking left others living with cancer, respiratory illness, heart disease, and other illnesses. Despite the clear link between smoking and these illnesses and deaths, each day 3,000 young Americans begin to smoke—a habit that will shorten the lives of 1,000 of them. We must address this problem. That is why the Food and Drug Administration proposed ways to limit young people's access to tobacco, as well as ways to limit the advertising that is so appealing to our youth. That is also why this Administration published the Synar regulation—to ensure that States have and enforce laws prohibiting sales of tobacco to young people.

Scientific evidence has also led to an increased understanding of the links between the foods we eat and certain types of cancer. By reducing dietary fat, increasing fiber intake, consuming a variety of fruits and vegetables, and avoiding obesity, every American can take steps to reduce the risk of cancer. The National Cancer Institute, in collaboration with the food industry, sponsors ''5 A Day For Better Health,'' a national program that encourages people to eat five or more servings of fruits and vegetables daily. And researchers continue to investigate nutrition programs that may have the potential to prevent cancer.

Mammography is another resource that can make a vital contribution to cancer control efforts, helping doctors detect breast tumors at an early, more treatable stage. Indeed, 93 percent of all women diagnosed with early breast cancer this year will live 5 years or longer. Recognizing the importance of this diagnostic tool, third-party reimbursement for mammograms is on the rise, and Medicare covers most of the cost of screening mammography for women over the age of 65. I encourage State governments, insurance providers, medical facilities, and employers to develop policies that improve women's access to this life-saving, affordable procedure.

In another step forward, the Food and Drug Administration has proposed changing its review process for new cancer therapies. This new approach will shorten development time by several years, and the FDA is also cutting its own review time in half—from a year to about 6 months. All of these changes mean new therapies will be available sooner and will be accessible

to more of our Nation's cancer patients. The FDA's initiative could immediately affect at least 100 drugs now being studied—with dozens of them getting to the market sooner—and improve the lives of millions of Americans who can take advantage of those therapies.

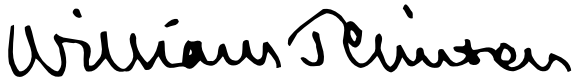
To publicize these advances and options, the National Cancer Institute's Cancer Information Service helps patients, health professionals, and the public in all 50 States and Puerto Rico. Toll-free telephone service provides accurate, up-to-date information about prevention and detection methods, diagnosis, treatment, rehabilitation, and research. In addition, the CIS' outreach system has developed partnerships with other cancer organizations and Federal, State, and local health agencies to promote cancer education initiatives aimed at medically underserved and other special populations.

This year marks the 25th anniversary of the National Cancer Act, which expanded and intensified America's efforts to stop cancer. We can take pride in the gains that have been made toward this goal during the past quarter-century, but we must also remember the essential work that remains. As we observe Cancer Control Month, let us renew and strengthen our abiding commitment to controlling and eliminating this disease so that our children and grandchildren can lead longer, healthier lives.

In 1938, the Congress of the United States passed a joint resolution requesting the President to issue an annual proclamation declaring April as ''Cancer Control Month.''

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim April 1996, as Cancer Control Month. I invite the Governors of the 50 States and the Commonwealth of Puerto Rico, the Mayor of the District of Columbia, and the appropriate officials of all other areas under the American Flag to issue similar proclamations. I also call upon health care professionals, private industry, community groups, insurance companies, and all interested organizations and individuals to unite in support of our Nation's determined efforts to control cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of March, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.



[FR Doc. 96–8254
Filed 4–1–96; 10:54 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 6876 of March 29, 1996

Education and Sharing Day, U.S.A., 1996

By the President of the United States of America

A Proclamation

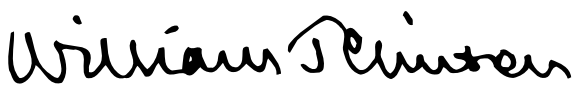
In looking forward to the 21st century, we recognize that excellence in education is the key to our Nation's future. At a time when we face difficult choices about how best to strengthen that future, our commitment to meaningful education for our youth must remain absolutely firm—we have a profound obligation to put children's needs first and to make the essential investments that will help them succeed.

Throughout his distinguished life, Rabbi Menachem Mendel Schneerson was an advocate for the high-quality education and strong values young people need to become productive and caring citizens. Drawing on a deep tradition of faith and a dedication to strengthening family and community ties, the Lubavitcher Rebbe sought to help our youth become responsible leaders and moral thinkers.

On this day and throughout the year, let us join parents, teachers, and concerned people everywhere who are following Rabbi Schneerson's example by empowering young people with essential skills and knowledge. By nurturing their minds and spirits together, we can help our children to embrace all of the exciting challenges ahead.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 31, 1996, as Education and Sharing Day, U.S.A. I call upon educators, volunteers, and all the people of the United States to observe this day with appropriate ceremonies, activities, and programs.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of March, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twentieth.



[FR Doc. 96–8255
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Federal Register

Vol. 61, No. 64

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FEDERAL REGISTER PAGES AND DATES, APRIL

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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Air quality implementation plans; approval and promulgation; various States:
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- Michigan; published 2-2-96

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- Treatment of intercrosses and intercross progeny (hybridization); comment request; comments due

LIST OF PUBLIC LAWS

This is a list of public bills from the 104th Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as ''slip laws'') from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 3136/P.L. 104–121

Contract with America Advancement Act of 1996 (Mar. 29, 1996; 110 Stat. 847)

H.J. Res. 170/P.L. 104–122

Making further continuing appropriations for the fiscal year 1996, and for other purposes. (Mar. 29, 1996; 110 Stat. 876)

H.R. 1266/P.L. 104–123

Greens Creek Land Exchange Act of 1995 (Apr. 1, 1996; 110 Stat. 879)

H.R. 1787/P.L. 104–124

To amend the Federal Food, Drug, and Cosmetic Act to repeal the saccharin notice requirement. (Apr. 1, 1996; 110 Stat. 882)

H.J. Res. 78/P.L. 104–125

To grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois. (Apr. 1, 1996; 110 Stat. 883)

S.J. Res. 38/P.L. 104–126

Granting the consent of Congress to the Vermont-New Hampshire Interstate Public Water Supply Compact. (Apr. 1, 1996; 110 Stat. 884)

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